Booklet - Lecture notes All

Introduction To Forensic Psychology (Griffith University)

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INTRODUCTION TO FORENSIC PSYCHOLOGY

STUDY NOTES

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GRIFFITH UNIVERSITY | CCJ10

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Module 1: What is Forensic Psychology?

Topic 1.1: What is Forensic Psychology?

Psychology is the study of behaviour and mental processes and includes the science of human:

- Thought (cognition);
- Emotion (affect); and
- Behaviour.

These elements are all intimately linked, e.g. if a person is changes the way they think it is likley there behaviour and emotions will change as well.

Forensic Psychology	Forensic means 'of the courts' thus the literal definition is 'psychology of the courts'.

Criminal Psychology v Forensic Psychology

- Offender focus.
- Relates to the psychology of criminal behaviour and the social context in which it occurs e.g. motivations of offences and the best way to rehabilitate these criminals.
- Forensic psychology is much broader than criminal psychology.

Forensic Psychology

- Relates to:
    - Criminal law
    - Civil law e.g. in a car accident a forensic psychologist may establish the cognitive function of the injured party.
    - Family law e.g. whether a person is fit for custody.
- Production and application of psychological knowledge to civil and criminal justice system (Bartol & Bartol, 1999, p. 3).
- Providing psychological services in the judicial or legislative systems, developing a specialised knowledge of legal issues as they affect the practice of psychology and conducting research on legal questions involving psychological processes (Hess, 1999 p. 36).

Legal Psychology

- Or psychology and the law.
- General term for the interface between the two disciplines.

Research Practitioners

- Grounds the discipline in social realty through the use of empirical research (Hewitt, 2009 p. 7).
- Link between research and practice.
- Psychologists in practice are encourages to be engaged with research.

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- Research practitioners should be knowledgeable about psychology and the law very few people are trained in-depth in both disciplines.
- Practitioners don't just apply psychological knowledge; they are amongst those who create it.
- The term 'evidence-based practice' describes the ideal relationship within the discipline.
- This model ensures that those who practice know what research is required.

Major Components of Forensic Psychology

Applied	Academic
• Police psychology: recruitment and stress. • Investigative psychology: profiling and geographic. • Clinical psychology: assessment and prediction. • Prison psychology: treatment and parole or release.	• Biological psychology: clinical inheritance and effects of injury. • Developmental psychology: aggression and delinquency. • Cognitive psychology: eyewitness testimony and interviewing. • Social psychology: juries and media influence.

Topic 1.2: History of Forensic and Criminal Psychology

1893	J. McKeen Cattell conducted the first experiment on the psychology of testimony • Four questions were given to 50 students and were asked to rate their confidence with each answer. • Two major findings: confidence doesn't equate to accuracy and in general there was a low level of accuracy.
1917	Psychologists used psychological tests to screen law enforcement candidates
1921	An American psychologist testified as an expert witness in a courtroom • State v Driver
1970's	Term 'forensic psychology' emerged
1971	American Psychology-Law Society formed (APLS) & American Academy of Psychiatry and Law (AAPL)
1978	Australian and New Zealand Association of Psychiatry, Psychology and Law (ANZPPL) formed
1978	APLS created the American Board of Forensic Psychology
2001	American Psychological Association recognises Forensic Psychology as an applied specialty within the field

Development of Forensic and Criminal Psychology

- Changes in the law
    - Insanity (legal tern) and incompetence to stand trial; and
    - An increased willingness to allow psychologists in the legal system to give testimony on relevant issues.

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        - First person acquitted on insanity occurred in 1505.
        - Marcus Aurelius (AD 179): principle that mental illness was punishment enough for a crime committed while in the throes of insanity.
        - Bartholomaeus Anglicus (1230): published mental conditions including melancholia.
        - Statutes at Large (1324): distinguished between lunatics and idiots – idiots will never gain property back, whereas when lunatics have been cured of lunacy they may have their property back.
        - By the 19th Century legal categories such as idiot, insane, lunatic and person of unsound mind were well entrenched.
- Links with parent discipline
    - Interest in decision making of juries led to interest in social psychology during the 1960's
    - Forensic psychology methodologies have their roots in other types of psychology.
    - Ebbinghause: memory research which related to eyewitness testimony.
- Social Change
    - Greater recognition of child sexual abuse.
    - Government policy changes the nature of the work of practitioners e.g. policy on the treatment of offenders or provisions of psychological care.

Early Work in Criminology / Sociology / Psychiatry

- Late 18th Century: Beccaria
    - People have free will to do what they wish. They do this in terms of an economic model where they weigh up the 'pleasures and pains' – if pains outweigh the pleasure the person will not pursue the action.
    - Punishment needs to outweigh the pleasure of the criminal's offence.
- Publication of official crime statistics in France.
- Lombroso
    - Criminals are a throwback to a previous evolutionary state.
    - Compared criminals and non-criminal's physical differences e.g. protruding jaw and squashed nose.
    - Theory was quickly discredited.
- Late 19th Century: Shrenk-Nortzing
    - Effects of media on witness memory between what they had witnesses and what they had read in newspapers.
    - He argues that witnesses at a murder trial confused their memories of the event with pre-trial publicity and weren't able to distinguish
- Sigmund Freud: didn't influence the legal matters, however his theory on human nature has affected the legal system.

Topic 1.3: Tensions Between Psychology and Law

Reasons for Tensions Between the Disciplines

- 'Culture clash' as different languages, cultures and norms (paradigm clash).

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- Reluctance of courts to accept evidence of psychologists as expert witnesses.

Common Ground Between the Disciplines

- Both law and psychologists focus on the individual and are concerned with predicting, explaining and controlling behaviour.
- Forensic psychologists work within a legal system devised from the development and application of the law.
- Work to promote legal reform.
- Psychologist can assist in legal investigations.

Eight Sources of Conflict

Law	Psychology
Conservatism • Precedents in court	Creativity
Authoritative • Courts look to higher courts for decisions.	Empirical • Based on science, experiments and data.
Adversarial • Fight to convince jury of best case.	Experimentation • Eliminates bias to experiment and find truth
Prescriptive • Prescribed laws e.g. to steal is a crime.	Descriptive • Concerned with understanding e.g. why did they steal.
Idiographic • Focus on case at hand.	Nomothetic • Broader principles if human behaviour.
Certainty • Uses principles to determine guild or innocence	Probabilistic • Statistics and probability to determine likelihood.
Reactive • Consequence of something happening	Proactive • Researcher determines when to study a topic – no outside pressure.
Operational • Apply facts to case at hand.	Academic • Research to find general principles of human behaviour and find settings to apply.

Further Differences

- Determinism v Free Will
    - Law suggests we act with free will and if the action is against the law we punish.
    - Psychology wants to determine why the contravention of law occurred e.g. environmental factors.
    - Soft determinism is the middle ground – acknowledge environment impacts but still punish.
- Ecological validity of research
    - Law questions validity of research not conducted in labs – lawyers will argue that this research isn't an accurate reflection of real life.

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Case Studies

Christopher Ochoa

- 1988, Texas.
- 20-year-old working at pizza hut was tied up, raped and murdered.
- Ochoa was threatened to confess by police offers despite not being guilty.
- Ochoa spent 12 years in jail.
- Was later exonerated.

Ronald Cotton

- 1984, North Carolina.
- A man broke into houses and sexually assaulted women.
- One victim identified cotton in photograph and real life line up
- Cotton served 10 years before he was exonerated on DNA evidence.
- Jennifer Thompson-Cannino was the woman who identified Cotton.

Developments in the field of psychology should flow through to forensic psychology however this takes time therefore forensic psychology may be behind.

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Module 2: Crime in Context

Topic 2.1: Defining Crime

What is a crime?

- Little consensus around the term crime.
- Some are obvious e.g. murder.
- Some are not so clear cut e.g. in terms of homicide self-defence.
- What factors decide what behaviours are criminal and which aren't.

Crime is Socially Constructed

- Dependent on world views.
- Raises questions about whether crime should be defined by law or moral and social conceptions/
- What crime is to one person may not be to another.
- For example, Nelson Mandela considered criminal, 27 years in prison and then becomes president.

Understanding Crime

- Crime can help to identify moral values and standards of behaviour (Durkheim, 1986).
    - Too much equates to too much regulation.
    - Too little leads to anomie – lack of values to guide behaviour.
- How we understand crime is a result of social practices such as reporting, recording practices and prosecution.
- Between 1970 and 2016 there has been an increase in the reporting of sexual assault – due to change in social attitude / definition of what sexual abuse is / an actual increase in abuse.

Legal Definition of Crime

- Can use a moral / social definition or legal one.
- Legal definition: crime is an intentional violation of the criminal law committed without excuse and penalised by the state (Tappan, 1947).
- Determines the response of society to a crime – however law is not static.
- Problems; strips away moral dimension, ignores social context and legal definition allows something to be a crime only when it breaks a law.

Other Definitions of Crime

- Human Rights: crime occur when a human right has been violated e.g. genocide, state terrorism and state sanctioned torture.
    - Widens across jurisdictions.
- Social Harm: crime involved criminal (e.g. assault) and civil offences (e.g. negligence) in that each type of action or inaction brings with it some type of harm.

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Aims of Criminal Law

- Retribution.
- A means the state can use to ensure citizens safety.
- Deterrence – specific deterrence (the individual who was guilty) and general deterrence (everyone else).
- Change in values is the change in law e.g. alcohol, smoking and gambling.

Topic 2.2 The Extent of Crime and Criminality

Statistics

- 50% of persons are victims of crime in Australia each year.
- In 2011 244 homicide incidents occurred.
- The age group most likely to be victims of robbery are 15 – 24 year olds.
- Ages 10 – 19 are most likely to be victims of sexual assault.
- Indigenous Australians more likely to be victimised.
- Most common crime is property crime.
- Most common crime to be imprisoned for in 2010 is assault.

Braithwaite's 13 Powerful Associations of Crime

- Crimes committed disproportionately by men:
    - 15 – 25 years' old
    - Unmarried
    - Living in large cities
    - High residential mobility
- Youth at school are less likely to offend
- Youth with aspirations are less likely to offend
- Youth with poor academic performance more likely to offend
- Youth attached to parents less likely to offend
- Youth with criminals as friends more likely to offend
- People with strong views about complying with laws less likely to offend
- Being in low SES increases rate of offending of all types except white collar crimes
- Crime rates increasing in most countries in WWI

What extend of criminal behaviour is normal?

- General imprisonment rates.
- Some groups more likely to have recorded crimes.
- Some type of crime is common in most individual's lifetime.
- Farrington and Kidd (1977) 'lost envelope study' – placed envelopes with money near mail box.
    - More than 1/3 took money.
    - Letters to men more likely stolen.
    - Men and women equally likely to steal.

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- Young more likely to steal.
- Casually dressed people more likely to steal – age or financial status?

International Crime Rates

	England and Wales (%)	United States (%)	Australia (%)
Sexual crime	3.0	2.5	1.0
Assault and threat	5.0	5.7	6.0
Burglary	3.5	2.6	6.6

- International Crime Victimisation Survey (2000).
- Note. Prevalence rates (i.e., % report being victim of a crime) in past 12 months. In total, about 30% of the Australian sample reported being victimised by some type of crime.

Topic 2.3 Sources of Crime Data and the Australian Criminal Justice System

- Sources
    - Crimes reported to police
    - Surveys of the public's experience of crime / victimisation
    - Court statistics
    - Prison statistics
    - General population offender surveys
- Ability to measure crime is important:
    - How much crime is there?
    - How does it compare from one place to another?
    - How much is it changing over time?

Police Statistics

- Police statistics the most commonly used measures of crime in Australia
- Limitations
    - Police don't cover all crime.
    - Statistics rely on people reporting to police.
    - Changes to police practices e.g. level of recorded crime.
    - Changes to police recording practices e.g. recorded levels of crime.
    - Biases/Police Discretion.
    - Criminal justice personnel increase, more crime can be processed / detected.

Crime Victim Surveys

- Most common alternative and usually anonymous
- Attempt at representative sample, respondents asked to recall experience of victimisation over past 12 mths
- Useful in several ways:

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- Can get info directly from public;
- Can help to interpret police crime statistics;.
- Useful in investigating why individuals report crime or fail to report it
- For crimes involving identifiable victims, surveys give a more accurate picture of the true level of crime (indicate higher levels of crime)* than police statistics

Problems with Victim Surveys

- Recall error
    - Some may simply not remember an incident
    - 'Telescoping' – not accurately recalling when the incident occurred
    - Repeat victimisation - boundaries between each crime become blurred
- Reluctance to disclose victimisation, even if anonymous (fear, embarrassment)
- Underestimate incidents of crime where victim and offender know each other

Self-Report Offender Surveys

- An obvious alternative to asking people whether they have been victims of crime is to ask whether they have committed a crime
- Can target general population or specific sub-groups
    - E.g., youth, drug users, men, etc.
- Tend to underestimate frequency of offending
- If survey youth, don't get a picture necessarily of all offences (e.g., white collar crime)
- Very few self-report offending surveys in Australia

Other Types

- Court statistics
- Prison statistics
- Accident and emergency data
- Each type of data source provides a different perspective on criminal activity

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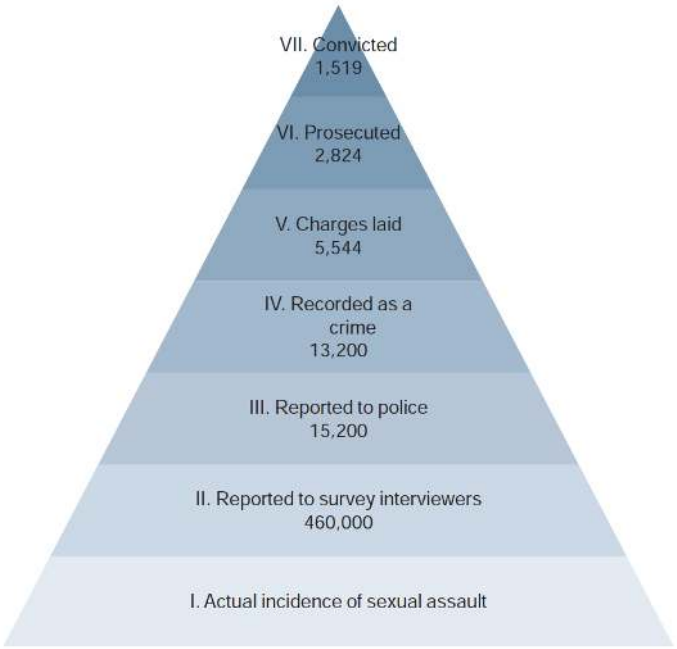
Example



Sexual assault in Canada: The attrition pyramid

Johnson, H. (2012). Limits of a criminal justice response: Trends in police and court processing of sexual assault. In E. Sheehy (Ed.), Sexual assault in Canada: Law, legal practice, and women's activism (pp. 633-654). Ottawa: University of Ottawa Press.

Topic 2.4 Public Attitudes to Crime and Fear of Crime

Crime and Public Attitudes

- Attitudes to crime matter – legislation or policy.
- Evidence that the public appears to have a tough-minded attitude towards crime.
    - Eg. Redondo et al (1996) study in Spain.
- Evidence that the public's knowledge about crime rates is over-estimated.

Moral Panics

- Perpetuated by the media through their agenda to a sell story e.g. biker gangs, refugees and child sexual assault.
- Stanley Cohen (1972, 1980).
    - Overreaction to an event, such as a type of crime, which is seen as a threat to society's values.
- Perceived threat of a crime is greater than the actual likelihood.
- Moral panics have, at times, led to new legislation (e.g., sex offender laws/preventative detention).

Fear of Crime

- Fear of crime not always (and usually not) commensurate with actual risk of victimisation.
    - Fear-victimisation paradox (Clark, 2004).

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- Influenced by
    - Direct knowledge.
    - Mass media.
    - Personality and social characteristics.
- However, those most at risk are young adolescent/adult males.
- Males most at risk of attack from people they don’t know.
- Women most likely to be physically assaulted by someone they know.

Theories of ‘Fear of Crime’

- Cultivation theory.
    - Mean world syndrome - more hours spent watching television (and more violent programs) therefore world view of high crime levels.
- Availability heuristic theory.
    - Fear of crime partly influenced by how readily we access images of crime.
- Cognitive theory.
    - Fear of crime equals the subjective belief of victimisation risk x perceived negative impact.

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Module 3: Theories of Crime

3.1: What is a theory?

- Attempts to classify and organise events
- To explain causes of events, to predict direction of future events, and to understand why and how these events occur
- Is developed using existing evidence
- Organises existing information
- Includes basic concepts and indicates how these concepts are related to each other
- Makes predictions
- Indicates how factors exert their influence and under what conditions
- To understand and explain 'why'
    - Use this to attempt to prevent crime.
    - After a theory is developed, researchers test the predictions in research - confidence in the theory strengthened or weakened.

Multiple Theories

- Enable us to understand crime from different perspectives
- Different theories can operate at different levels of analysis:
    - Societal or macro-level theories
        - E.g. Merton's strain theory
    - Community or local theories
        - E.g. The Chicago School – zones of transition
    - Group and socialization influence theories
        - E.g. Sutherland's differential association theory
    - Individual level theories
        - E.g. Personality theories or biological theories

3.2: Neuropsychological Theory

- People commit crimes due to physiological, anatomical or genetic defects
- May be:
    - inherited genetically
    - due to peri-natal or pre-natal conditions
    - a result of environmental factors
        - The effects of these factors may be permanent or transitory in nature

Genetics

- if criminality is inherited genetically someone from criminal biological family more likely to offend

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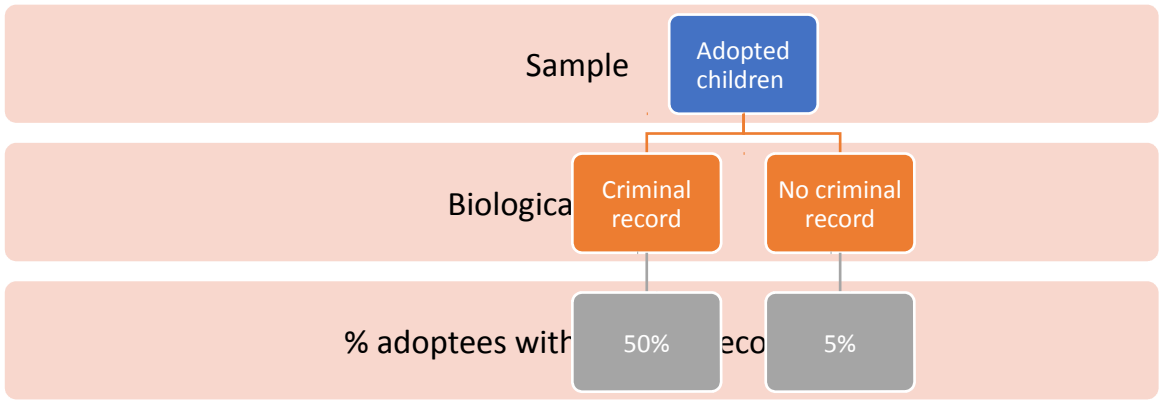
- Raine (1993, p. 66) reviewed 15 studies on heritability and crime concluded “it would seem erroneous to deny the fact that genetic factors play some role in the [causes] of criminal behaviour”, especially for non-violent adult crime. But still a substantial role of environment.
- Approximately 30% - 40% is explained by genetics.

Adoption Studies



- Only mothers
- By the age of 18
- Study done by Crowe

Mednick et al (1983)

- 14,500 male adoptees: the link was only found for property crimes, not violent crime.

Biological Abnormalities

- Examples of biological abnormalities and irregularities related to violence:
    - Damage or abnormalities in brain
        - prefrontal cortex, amygdala (fear), hypothalamus, hippocampus
    - Irregular functioning of neurotransmitters
        - serotonin, dopamine, norepinephrine, cortisol
- Some evidence that biological damage, abnormalities or irregularities can influence crime and violence but these may result from environmental factors.

Head Injuries

- Some link between head injuries and crime
- Can result in personality changes
    - E.g. Phineas Gage
- Evidence for link of brain abnormalities or head injuries to crime:
        - Abnormal brain EEG
        - PET scans

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- Offending samples - more head injuries
- Perinatal complications – more violent crime
- Link between brain damage and violent crime
- Before vs. after brain damage – small increase in offending

Benefits and Limitations

- Benefits of neuropsychology theories:
  - Some influence on criminality BUT other factors also important AND may be more important for certain groups/individuals
  - If biological deficit identified - could try to target this to prevent crime
- Limitations:
  - Our understanding is incomplete
  - Not very popular
  - Difficult to isolate influence of biological factors versus other factors

3.3: Intelligence theory

Intelligence

- Offending related to low intelligence?
- Superficially compelling
- Education and training common in corrective services and often offenders do have low levels of education BUT this does not necessarily mean offenders are not intelligent
- Correlation only 0.1 for adults, 0.2 for juveniles (0.5 for other environmental factors – e.g., values, attitudes and beliefs)

Less Popular Theory

- Not a popular theory
- Low intelligence not the norm in criminal populations
- Research support minor compared to many other
  - Social factors
- Offenders of high intelligence?
  - E.g. Ted Bundy

3.4: Rational choice theory

- Cognitive in nature in sense that they focus on the decisions people make in different situations of opportunity and in relation to particular types of crime
- Decision to break the law is a rational one
  - Based on extent to which they think the choice will maximise their profits or benefits and minimise their costs or losses

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Not Cost and Benefit

- Decision making does NOT appear to be a matter of rational evaluation or calculation of costs and benefits
    - Only benefits assessed
    - RCT says both benefits and costs are assessed
- Most studies that test RCT do so now by also considering other factors at same time
    - Point: RCT plausible if also consider other factors

3.5: Attachment theory

- John Bowlby
- Attachments have been defined as "an affectional tie or social bond between individuals and includes behaviours that mediate the formation and maintenance of that bond" (McClellan & Killeen, 2000, p. 354)
- Humans have the propensity/are predisposed to make strong affectional bonds to particular others
- Early internal models of attachment provide children with template for all future relationships and subsequent attachments.
- Strong association between early maternal separations and subsequent delinquency among boys.
- If insecure - unable to form functional social relationships
- Insecure attachments have been associated with:
    - Aggression, general and domestic violence, separation assault, stalking, sexual violence, other criminal behaviour
- Strength – drew attention to importance of early life experiences.

Attachment Styles

Attachment type	**Caregiver Behvaiour**	**Child Behaviour**
Secure	• Reacts quickly and positively to child's needs • Responsive to child's needs	• Distressed when caregiver leaves • Happy when caregiver returns • Seek comfort from caregiver when scared or sad
Insecure – avoidant	• Unresponsive • Uncaring	• No distress when caregiver leaves • Does not acknowledge return of caregiver • Does not seek or make contact with caregiver
Insecure – ambivalent	• Responds to child inconsistently	• Distress when caregiver leaves • Not comforted by return of caregiver
Insecure – disorganised	• Abusive or neglectful • Responds in frightening or	• No attaching behaviours • Often appears dazed, confused or

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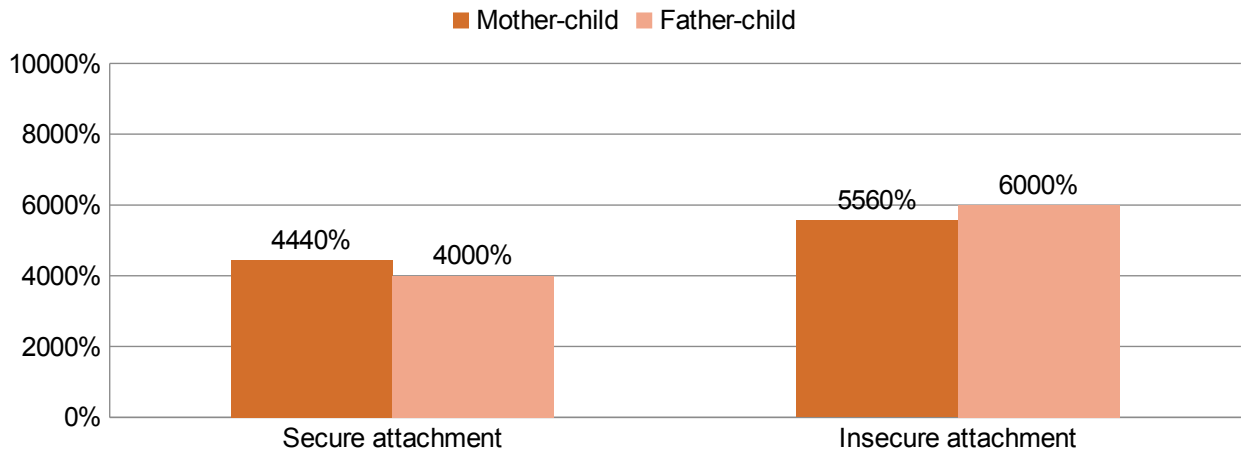
	frightened ways	apprehensive in presence of caregiver

Attachment Styles of Filicide Offenders



3.6: Eysenck's Biosocial Theory

- Biosocial: Genetic factors contribute to behaviour but effects influenced by environmental or social factors:
- 4 aspects to his biosocial theory
    - Genetics
    - Constitutional factors
    - Personality
    - Environmental influences

Genetics

- What about XYY? More aggressive?
    - DEFUNCT
- Twin studies?
    - 0.7 correlation for monozygotic twins for criminality vs. 0.4 correlation for dizygotic twins

Constitutional Factors

- Physical differences b/w criminals and non-criminals
- Sheldon's (1949) 3 body types (i.e. somatypes):
    - Endomorphs, ectomorphs, mesomorphs
        - Research:
        - Mesomorphs – violent and aggressive acts
        - Delinquents – endomorphs not ectomorphs

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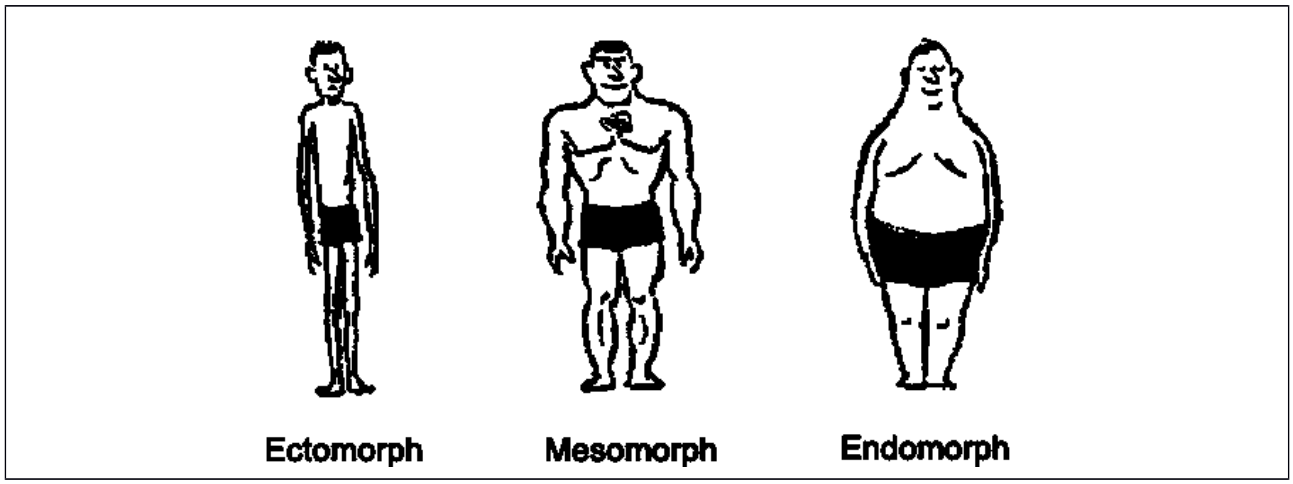
Somatypes



Personalities

- 3 components
    - Psychoticism
    - Extraversion
    - Neuroticism
- Eysenck believed all 3 of these are related to criminality
    - High levels on all signal possible criminality

Environmental: Socialisation

- Based on Pavlov's classical conditioning principles
- Crime is failure of socialisation to stop immature tendencies
- Can be socialised to be less criminal
    - Behaviour influenced by Rewards and Punishment

PEN and Socialisations

- Psychoticism
    - Non-conforming and antisocial activities
- Extraverts
    - Learn more slowly than introverts, therefore more likely to be criminal
- Neuroticism
    - Emotionality makes it harder to socialize and condition the person
    - Emotional, volatile & hyper-reactive - overreact and respond inappropriately to averse situations

3.7: Social learning Theory

- Observational learning & Modelling
    - Consequences are therefore important
    - Reinforcement also important
- Another extension of theory lies in the concept of motivation

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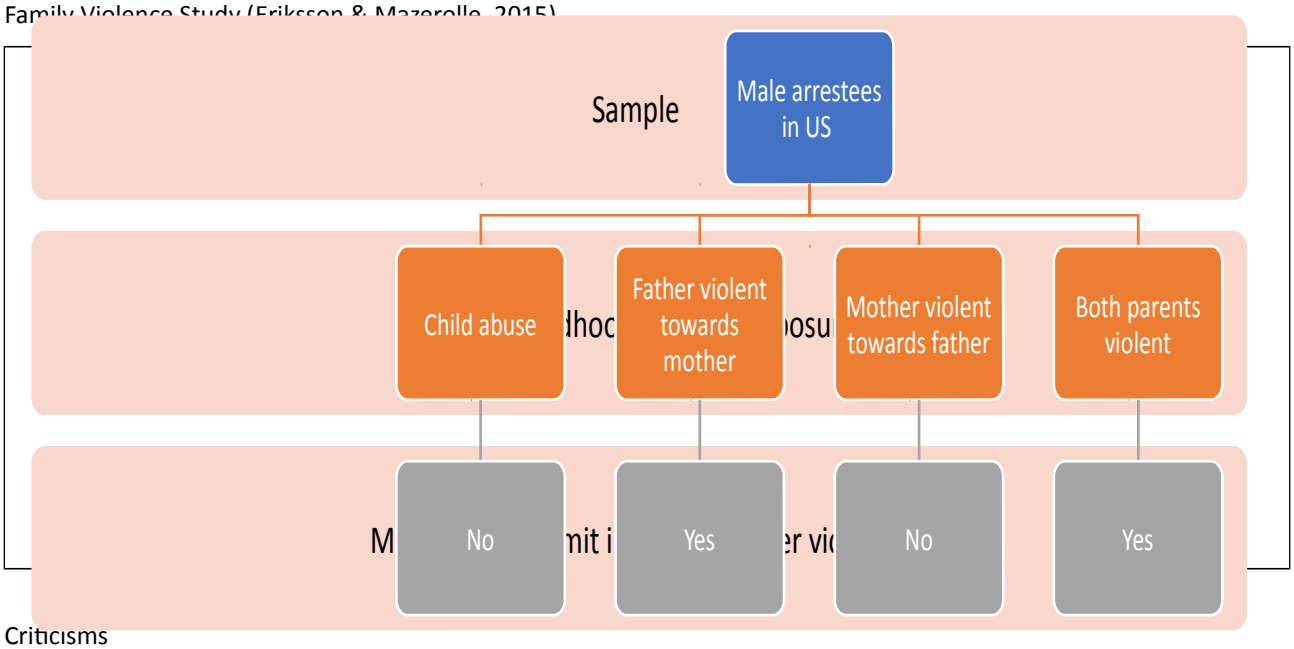
- 3 aspects to motivation
    - External reinforcement
    - Vicarious reinforcement
    - Self-reinforcement

Bobo Doll Experiment

Social learning theory of crime suggests observational learning takes place primarily in 3 places:

1. Family
    - unlikely to learn violence inappropriate
    - fewer opportunities to learn constructive/pro-social conflict resolution or coping strategies. Many opportunities to learn to use violence as a means to resolve conflict or cope with stress
    - non-violent strategies receive little reinforcement
    - reinforce individuals'use of violence
2. Prevalent subculture (your social group)
3. Cultural symbols which form part of social environment (books, TV)

Family Violence Study (Eriksson & Mazerolle, 2015)



Criticisms

- Overly simplistic view
- That the individual is a passive receptor of learning processes
- Don't allow for purpose and meaning
- Or that same event can be experienced very differently by different people
- Don't take into account the idea of free will
- Can't explain under what circumstances criminal behaviour will or will not be learned

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Module 4: Juvenile Delinquency and Juvenile Justice

4.1: The Extent of Adolescent Offending

- In most Australian jurisdictions, offenders under the age of 18 years are known as juvenile offenders.
- Although the peak age of offending for most offending types is 16-17 years, relatively small numbers of young people commit crime.
    - The most typical forms of crime are minor offences such as theft.

Age of Criminal Responsibility

- In Australia, the age of responsibility is 10 (can't be charged with an offence) and sometimes police may need to prove that you knew what you were doing was wrong.
- If aged 10-13 years, principle of *doli incapax* applies
    - Presumed incapable of crime and prosecution must rebut the presumption
- Considered an adult at 18 (except Qld is 17).
- Children's court in 2010 – 2011 36236 offenders.
    - Types of offences:
        - Theft 21%
        - Acts intended to cause injury 20%
        - Unlawful entry with consent 13%
        - Public order offences 9%
        - Traffic offences 8%
    - Ages
        - 17 years 25%
        - 16 years 24%
        - 15 years 17%
        - 14 years 10%
        - 13 years 5%
        - 10 – 12 years 3%
    - Gender
        - Male 79%
        - Female 21%
    - Sentencing
        - 90% to non-custodial orders (e.g. fines, good behaviour bonds, community supervision or work orders).

Intergenerational Offending

- 1/3 of prisoners in the UK has a family member in prison.
- 53% of males who had a convicted family members had convictions themselves.
- 1% of families in the UK were responsible for 20% of convictions.

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Common Misconceptions Disproved

- Most recently, rates of youth offending have fallen. Between 2010/2011 and 2011/2012, rates of juvenile offending in Australia dropped by 13%.
- In 2011/2012, around 2.6% of young people in Australia committed an offence recorded by the police. The majority of crimes committed were property and drug crimes.
- Research indicates that a large proportion of young people who engage in crime do so only once or only for a short period over the life course and tend to 'grow out' of crime.
- Police data suggests juveniles account for around one-fifth of recorded crime. By comparison to adult offenders, young people are more likely to commit minor offences e.g. graffiti, vandalism and shoplifting.
- The risk of victimisation for many crime types is highest for young people. Young people aged 15-24 are the age group most at risk of assault. Males aged 15-19 have the highest rate of robbery victimisation while females aged 10-14 have the highest risk of being victims of sexual assault.

4.2: Types of Adolescent Offenders

Two types of adolescent offenders:

- Life-course persistent offenders
- Adolescent-limited offenders

Life-Course Persistent Offenders	Adolescent-Limited Offenders
• Commit a wide range of offences including violence • Very small group of offenders but account for most crime	• Short criminal career • Commit predominantly rebellious, non-violent crimes

Statistics of Offenders

- For 18 – 25-year-old males, most offending occurs at about 16-17 years.
- Those convicted earliest tend to become the most persistent offenders.

4.3: An Overview of Life-Course Criminology

- Especially concerned with documenting and explaining within-individual changes in offending throughout life.

Life Course (also known as developmental criminology) is concerned with three issues

1. The development of offending and antisocial behaviour
2. Risk and protective factors at different ages
3. The effects of life events on the course of development

Concepts

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- Pathway: experiences in one's life that, over time and social situations have a shape, coherence and story to tell.
- Transition: a transition is a movement form one life stage to the next e.g. starting high school.
- Turning Pont: a personalised event e.g. moving into a relationship with an anti-offender.
- Risk Factors: factors shown to be associated with negative outcomes later in life.
- Protective Factors: factors which are likely to inhibit or buffer the development of antisocial behaviour and divert children towards pathways that lead towards positive outcomes.

4.4: Risk and Protective Factors for Delinquency

Certain types of parenting associated with criminality including:

- Punitive child rearing practices
- Absence of love
- Poor monitoring and supervision
- Family disruption
- Deviant parental characteristics

Predicting Delinquency (David Farrington leading studies)

- Cambridge study in delinquent development (CSDD – David Farrington)
    - 411 South London boys followed from ages 8 – 49 (9 phases to study).
    - Documented development, continuance and desistance of delinquent and criminal behaviour in males.
- Mater-University of Queensland Study of Pregnancy and its outcomes (MUSP)
    - 8556 followed from pre-birth up to teenage years.
    - Focus on health, development and behaviour.
- Dunedin Multi-Disciplinary study (Moffitt)
    - 1037 New Zealand children followed from infancy.
    - Focus on health, development and behaviour.
- The Australian Temperament Study (Smart el at)
    - 2443 Victorian children from infancy to 20 years.
    - Tracing pathways to psychosocial adjustment and maladjustment.

Findings: Risk and Protective Factors

	Risk Factors	Protective Factors
Individual	• Low IQ • Low academic achievement • Hyperactivity • Impulsiveness • Risk taking	• Social competence • Social skills • Attachment to family • Moral beliefs • Values

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	• History of antisocial behaviour • Neurological problems • Perinatal difficulty	• Good coping style
Family	• Poor parental supervision • Harsh discipline • Inconsistent discipline • Cold parental attitude • Parental conflict - or divorce / separation • Criminal parents or siblings • Parental substance abuse	• Caring parents • Family harmony • Small family size
Socio-Economic Factors	• Low income • Poverty • Large family size • Parental unemployment	
Peer	• Delinquent peers • Rejection • Low popularity	• Positive school climate • Prosocial peer group • Sense of attachment to school • School norms
School	• Bullying • High delinquency rates school • Poor community • Under-resources • Poor parent-teacher school relationship	•
Neighbourhood	• Poverty • Poor access to resources • High crime and violence • Socially disorganised neighbourhood	• Access to support services • Community networking • Community/cultural norms against violence • High socioeconomic status

- Risk factors and protective factors re intercorrelated (Yoshikawa, 1995)
    - They are cumulative – rare for only one risk or protective factor to be prevalent
    - Different risk factors matter at different times

Psychiatric Disorders

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- Some relationship between psychiatric disorders and crime
    - Conduct disorder: disturbed behaviour (e.g. not following the rules) in childhood lasting longer than six months (must meet three or more criteria).
    - Anti-social personality disorder (ASPD): characteristics at odds with social norms, can only be diagnosed in adults (must meet four or more criteria).

Precursors of Anti-Social Behaviour

- Low income
- Poor housing
- Large family
- Convicted parents
- Harsh or erratic discipline
- Low intelligence
- Early school leaving

Cambridge Study

- Instrumental in identifying childhood and adolescent risk factors and predictors for offending.
- Found that anti-social behaviour is an early indication of anti-social personality.
- Early intervention is key.

Haapasalo and Tremblay (1994)

- Another way to categorise adolescent offenders
- Grouped kids into five offending patterns:
    1. Stable high fighters: consistently aggressive over a long period of time - parents more likely to have come from SES areas, parents were younger when they were born, more likely to have lower levels of education.
    2. High fighters with late onset
    3. Desisting high fighters
    4. Variable high fighters
    5. Non-fighters: kids tended to be carefully supervised, less likely to have received physical discipline

Berlin Crime Study

- Male adult offenders admitted to prison in 1976
- Property offences & fraud = 60%
- Robbery & bodily harm = 10%
- Sexual offences & homicide rare
    - Adolescent-limited offenders — reached maximum offending by age 20 then decreased.
    - Limited serious offenders — seriousness escalated but ceased around age 30..
    - Persistent serious offenders — accumulated risk factors and high recidivism.

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- Occasional offenders— low delinquency, absence of childhood risk factors, offendin may be associated with critical life events, specialist o ending
- Late-starting offenders — similar to occasional but offending not triggered by life events, professional criminals (e.g., fraud, burglary)

Adolescent Sex Offending

- Factors predictive of sexual offending may be different (according to Langstorm, 1999) to that of other offenders.
    - Early onset of sexually abusive behaviour
    - Male victims
    - Multiple victims
    - Poor social skills

4.5: Theories of Delinquency

- Can be categorised into three groups
    - Individual propensity approaches e.g. theory of moral development
    - Social interactionist approach e.g. social development model, general age-graded theory of crime
    - Integrated factor approach e.g. a pathways approach

Individual Propensity Approaches (Kohlberg's theory of moral reasoning)

- Moral reasoning develops in discrete stages (stages differ in the reasons people give for their decisions).
    - Three levels of reasoning: pre-conventional, conventional and post conventional. Within each level there are two stages.
    - As people age they take on higher levels of moral reasoning.
- Delinquency associated with reasoning at lower levels (may be delayed development).
- Possible reason as to why juveniles 'mature out of' offending
    - Progression through stages based on age or cognitive maturity.
    - Or if exposed to people operating at a higher level.
    - Mature due to progression through stages allowing them to take on higher levels of moral reasoning.

Social Interactionist Approaches (Social development model, Hawkins et al 1992).

- Argues offending is a result of prosocial vs antisocial bonding being out of balance.
- Children are socialised through four social development processes:
    - Perceived opportunities for involvement in activities and interactions with others.
    - Degree of involvement and interaction.
    - Skills to participate in these activities.
    - Reinforcement they perceive from this involvement.

Social Interactionist Approaches (General age-graded theory of crime, Sampson and Laub 2004).

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- Main proposition equals an individuals propensity to offend is dependent upon involvement in conventional activities.
- Emphasises connectedness to social institutions.
- Although trajectories are influenced by early experiences, Sampson and Laub believe that social factors (specifically informal controls) can modify trajectories, reducing offending into adulthood.

An Integrated Factors Approach (Pathways approach, Homel 2005)

- Crime is a result of many interacting factors.
    - Individual, family, school, biological, social context.
    - For example, Status differences at birth create a set of circumstances making it likely that a child' 5 level of disadvantage will be maintained or even increased at each life stage.
        - E.g. being born in a disadvantaged family means it is likely that child will grow up in a family environment that is less secure and in a disadvantaged neighbourhood with fewer opportunities and resources). This means they may be ill-prepared when they begin school and are likely to fail early on or exhibit serious behaviour problems. Poor school performance has implications for all further stages throughout life and is likely to be associated with poor life outcomes like drug use, crime and chronic ill-health.

4.6: Intervention Programs

- Purpose is to divert young people form a negative to positive pathway.

Features of Developmental interventions

- Guided by knowledge of risk and protective factors.
- Take place early in life or at crucial transition periods.
- Do not necessarily aim to specifically reduce crime, but address common risk factors.
- Often include multiple components targeting multiple risk factors.

Types of Interventions

- Universal: for the general population or for all members of a specified collective e.g. a community or school.
- Selected: for groups judged to be at increased risk.
- Targeted: directed at individuals already manifesting a problem such as disruptive behaviour.

Settings

- Home
- Pre-school/School: May also be used as venue for parent training.
- Community: Playgroups, Health care centres, Churches etc.
- Educational programs: school programs (focus on social skills, decision making, cognitive enrichment).
- Family support programs: home-visitation often with disadvantaged mothers (focuses on care, nutrition, parenting skills).

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- Combined family support and early education: some evidence that this combination is most effective in reducing antisocial behaviour in long-term.

Examples of Programs (Elmira/Parental Early Infancy Project, Olds 1988)

- Involved bi-weekly home visit by a nurse who provided prenatal care, baby health care and assistance with linking to other services.
- Subjects: 400 first time mothers who were young, poor, and/or single.
- Outcomes
    - Better parenting skills at age 4
    - Higher maternal employment
    - Fewer subsequent pregnancies
    - More widely spaced pregnancies
    - More mothers returned to education
    - Less abuse/neglect
- Why? Encouraged sense of control over lives. Increasing parent involvement in child development & improved child health.

Examples of Programs (Perry Preschool study, Schweinhart 2004)

- Subjects: 58 disadvantaged African-American 3-4 year olds, and a control group, 123 total.
- A daily preschool program was provided in addition to weekly home visits by teachers.
- Classes conducted every weekday morning for two hours in groups with and average of 5-6 children per teacher.
- Teachers visited the children's homes weekly.
- Outcomes:
    - Follow up to age 40
    - Higher school achievement
    - Higher rates of literacy and employment
    - Less offending, especially fewer arrests
    - Less antisocial behaviour
    - Less welfare dependency
    - More likely to be home owners
- Cost-benefit- for every $1 spent on the program, $17 were saved in the long run.

Examples of Programs (Pathways to Prevention Program Griffith University, Freiberg & Homel 2001)

- 2 intervention streams:
    - The Preschool Intervention Program (PIP)
    - The Family Independence Program (FIP)
- 7 schools targeted in disadvantaged suburbs of Brisbane (3 ethnic groups: Indigenous, Pacific Islander, Vietnamese)
- Targeted families with 4-6 year olds commencing school.

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- PIP program involved:
    - Communication Program
    - Social Skills program
- FIP program involved:
    - Parent training
    - Playgroups- cultural
    - Counselling and crisis support
    - Welfare assistance
    - Adult support groups
- Outcomes:
    - Measures include:
    - Language skill
    - Teacher assessment of readiness for school
    - Behaviour rating inventory
- Findings:
    - PIP had a positive effect on reducing problem behaviour for boys in the program schools, and increasing teacher ratings of readiness for school
    - Children who were worse off initially showed greater improvements
    - Slightly improved grade one school performance
    - BUT effect greatest for those whose parents were participating in FIP components AND receiving PIP.

Features of Successful Programs

- Well-resourced.
- Carefully implemented by well-trained staff.
- Based on explicit theories- though varied in nature- no one ‘correct’ approach.
- Some form of development of parental capacities, resources and skills, sometimes through parent training and sometimes through more broad family support.
- Operated simultaneously in multiple domains, including children, their parents and their teachers.

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Tutorial Activity: 1

Watch the following video on restorative justice: https://www.youtube.com/watch?v=NjWFUidiZ1E and then post your responses to the following questions:

What do you think are the pros and cons of a conference for the offender?

Advantages	Disadvantages
• The offender is given a formal chance to explain themselves and / or apologise for their actions. This would be especially important if personal circumstances in their home lives were a relevant factor in their offending. • The offender is given a formal chance to hear first-hand the effect their actions had on the victim. • The offender and their family / supporters are involved. This may have a long term strengthening effect for the offender and broader community.	• The offender must face their victim. This may be difficult on the basis that there may have been a reason that this individual chose their victim such as prior conflicts, if this is not an issue there is the possibility of additional guilt being placed on the offender. This may be an issue especially if the offender is of a particularly young age. • The offender isn't being explicitly punished through this process. Therefore, additional count proceedings must be undertaken if the act was unlawful and this will amount to the cost of the procedure.

What do you think are the pros and cons of a conference for the victim?

Advantages	Disadvantages
• The victim is provided with the opportunity to hear and understand the possible reason or factors which caused the incident. This may be part of the healing process. • There is focus placed on the victim. In the normal process of Australia's judicial system very little attention is brought to the plight of the victim and thus this system is restorative justice may shed light on the effects of criminal activity.	• The victim may be forced to relive or come to terms with the incident (which may be traumatic for them). Additionally, being required to be in close proximity to the offender and talk to them may be quite intimidating. •

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Module 5: Sex Offending Criminological v Psychological Approaches

5.1: Understanding Sex Offending- Criminological v Psychological Approaches

Criminological Versus Psychological Approaches

- Tendency for study of sexual offenders to be dominated by psychology discipline.
- Assumption that sexual offenders specialise in their offending.
- Lead to theories and treatment programs that focus on sexual deviancy and cognitions associated with the sexual nature of offence (focus of lecture).
- More general theories derived from criminology are thought not to apply.
- BUT emerging interest in versatility of offending by men convicted of a sexual offence and application of criminological models.
- Project Access: interviewed over 300 sex offenders and found 2/3 of offenders had a previous offence but 82% of the first offences were a property offence.

Patterns Associated with Rape

- In some jurisdictions rape is only penile penetration and only man against a woman.
- Queensland had a broader definition.
- Research using British data on stranger rape found the following characteristics (Canter et al, 2003):
    - 10% Controlling the victim e.g. bound / gagged or weapons
    - 20% Theft from victim
    - Involvement- pseudo intimacy (e.g. complimenting victim, reassuring victim, implies knows victim)
    - Hostility (e.g., threats, demeaning comments, attempted anal penetration)

Typologies

- The motives and behaviours of rapists have been summarised by Hazelwood (1987) as follows:
    - The power-assurance rapist – insecurities about masculinity (reassure through rape), violence, trophies, serial offending.
    - The power-assertive rapist – expresses sexuality and power over women, date-rape, socially confidant.
        - 2010-2011 480 rapes, 80% offender was known to the victim.
    - The anger-retaliatory rapist – high levels of anger towards women, blitz style attacks, anger builds up and they offend, degrading activities during rape.
    - The anger-excitement rapist – gains pleasure and excitement from distress of victim, high levels of control and violence, victims are strangers and rapists are prepared.

5.2: Theoretical Explanations of Rape

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Theoretical Perspectives

- Socio-cultural theories
- Feminist Theories
- Social Learning Theory
- Evolutionary Theory

Socio Cultural

- Some aspects of cultural organisation of society might encourage men to rape.
    - Individualist-collectivist orientation.
        - Hong-Kong is collectivist) rates of sexual coercion higher among American students.
    - Gender inequality – males are dominant and females submissive.
    - Social disorganisation – socio-economic e.g. divorce, single parent.

Feminist

- Gender structure of society regarding control of women.
- Disparities in social status and power.
- Rape motivated by desire for power and dominance.
- Lower levels of rape in more sexual egalitarian societies.
- Note: There are many feminist theories, this is a brief summary of some ideas.

Social Learning

- Rapists learn pro-rape beliefs and attitudes from their social network.
    - Process of modelling and reinforcing.
    - But not all men with pro-rape attitudes actually commit rape.
- Following this argument, use of violent pornography should increase propensity to commit rape.
    - Although pornography may be used, there is little evidence to support notion that there is a causal relationship between pornography and rape.

Evolutionary Theory

- Broad theory relating to one's adaptiveness for the transmission of one's genetic material (to create next generation).
- Examine rape to extent that it serves this purpose (e.g., Ellis, 1989).
- Therefore, rape is at least partially sexual, not only related to violence.
- Males and females do not necessarily share the same interests in sexual reproduction.
- Times when males may want to prevent female from exercising choice over appropriate partner (e.g., Quinsey, 2002).

5.3: Raymond Garland Case Study

Facts

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- Raymond Garland is a 42-year-old male
    - Spent most of his life in custody, only 18 months most of which was on parole
- A psychologist said he met criteria for anti-social personality disorder
- He is of normal intelligence and psychological assessment shows he is not psychopathic
- Medical assessment reveals his testosterone level is normal

Background

- Before age 10 witnessed alcoholic father violently forcing sex on his mother and engaging in sex with other women.
- Was physically and sexually abused by father.
- From age 10 placed through a series of foster homes that were disciplined, impersonal and where boys were fondled by officers.
- He started offending against other boys.

Timeline

- He then lived on the streets and engaged in prostitution
- Age 11 convicted of break enter and steal – generalist offender.
- Age 14 convicted of three counts of sexual assault.
- Age 16 raped and sexually assaulted two youths in the Southport Watchhouse.
- Age 16 escaped custody and raped a 14-year-old youth while armed with a broken bottle.
- While in custody attempted to sexually assault another prisoner while armed with nail clippers.
- Age 18 raped another prisoner while armed with a razor blade.
- At this point committed 29 offences while in custody, including violence, sexual offences, damaging property and preparing to escape.
- Released on parole in early twenties and abducted two teenage boys, used one of the teesns to entice another couple and kidnapped them. Siege situation arose, he raped one of the boys and raped the adult female who was 5 months pregnant.
- Within 4 months of release on parole committed 45 offences including multiple violent rapes. Victims ranged in age from 14 years upward and were male and female.

Courts

- Currently serving an indefinite sentence for rapes committed while on parole.
    - Parole board said that he'd be a significant list.
- Extensive criminal history of convictions for assault, stealing, escaping lawful custody, failing to appear, robbery with intent and in company, being an unlicensed driver, stealing a motor vehicle, malicious injury, stealing a motorbike and resisting police.

Risk Factors

- His risk factors were identified as:
    - lack of emotionally intimate relationships;

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- aggressive thinking patterns;
- poor impulse control;
- poor cognitive style, lack of empathy, lack of consequential thinking;
- poor self-control;
- sexual preoccupation; and
- sexualised violence.

5.4: Managing Sex Offenders

Dennis Ferguson (QLD case)

- Previous criminal record of assaults on children and women
- In 1987, released from prison and abducted three children and took them to a motel; police found him naked with children
- Jury found him guilty on all counts and sentenced him to 14 years' imprisonment
- Released in 2003, reoffended, sentenced, released in 2004, charged in 2005, acquitted
- Forced relocation around QLD with much media attention and public outrage, relocated to NSW

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Module 6: Violent Offenders

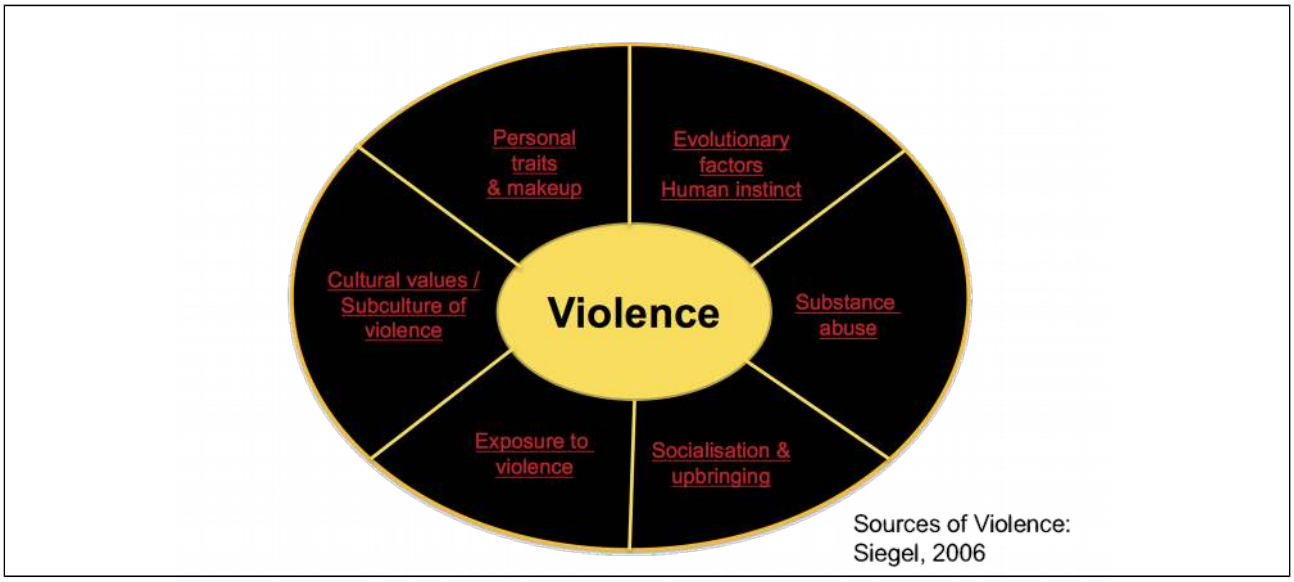
6.1: Violent Offending - Extent and Causes

What 'sets off' a violent person?

- Expressive vs instrumental violence.
    - Expressive: acts that vent rage, anger or frustration (eg. Massacre in Norway – Anders Breivik; Anita Cobby - nurse).
    - Instrumental: designed to improve the financial or social position of the offender.
- Several broad views:
    - Violence is personal.
    - Improper socialisation and upbringing.
    - Culturally determined.
    - This lecture explores nature and extent of violent crime:
- Reviews hypothetical sources of violence
    - Focuses on specific types of interpersonal violence (eg homicide, intimate partner violence)
    - Examines new forms of interpersonal violence (hate crimes, stalking)

Violent Crime Rates

- While crimes have increased over the past century, including violent crime, increases in homicide are more modest
    - In Australia homicide, has ranged between 0.8 to 2.4 per 100,000 over the past century (ABS, 2002).
    - In Australia - Homicide decreased (9%) since 1990, armed robbery by 1/3 since 2001, assaults (40%) & sexual assaults (20%) increased in past 10 years steadily (AIC, 2008).
    - Surprisingly, violent crime has been decreasing in the USA.



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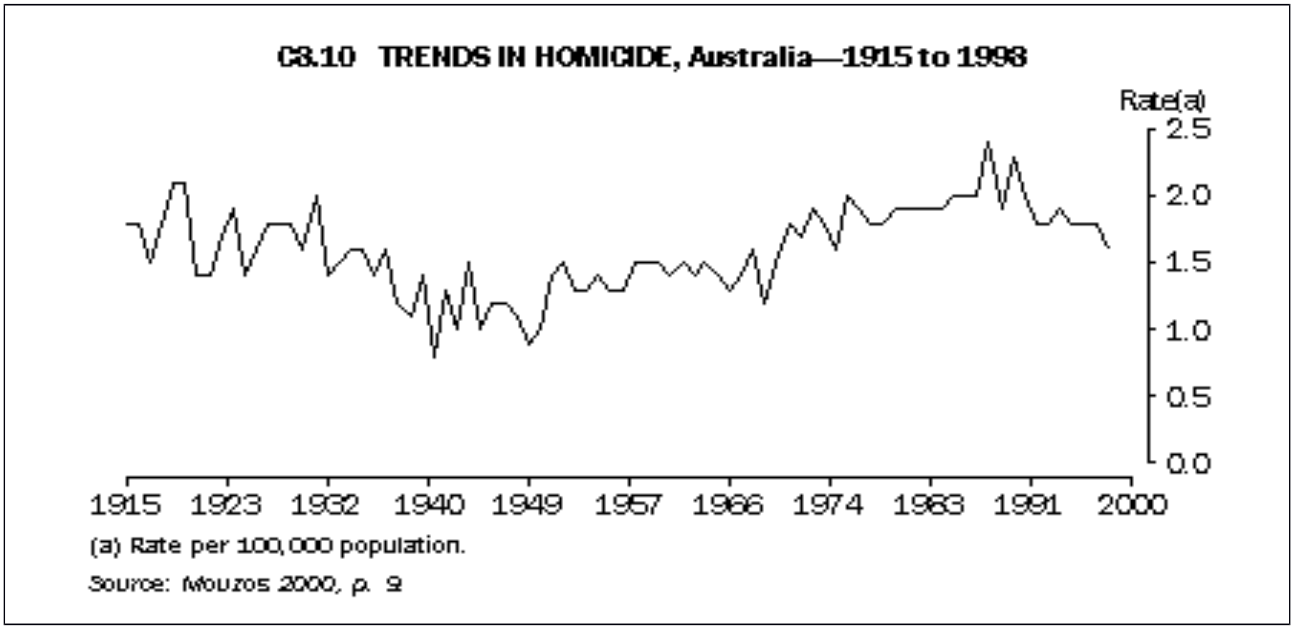
Example

- Port Author Massacre.
- Washington Sniper.

6.2: The Nature, Prevalence and Characteristics of Homicide

Murder and Homicide

- Murder: 'the unlawful killing of a human being with malice aforethought'
    - No statute of limitation for murder
- Degrees of Murder
    - First degree murder
        - Premeditation & deliberation required
        - Felony murder
    - Second degree murder
        - Malice aforethought but not premeditation or deliberation
    - Manslaughter - voluntary vs involuntary
        - Homicide without malice.



- Homicide is one offence for which data are generally and consistently available.
    - US comparison – 9.8 per 100,000 in 1991
- 60% of homicide incidents occurred in residential premises.
    - ½ occurred on Friday, Saturday, or Sunday,
    - 2/3 occurred between 6pm and 6am.
    - Approximately 60% of victims are typically male
    - Approximately 87% of offenders are male
        - 2 out of 5 were under influence of alcohol

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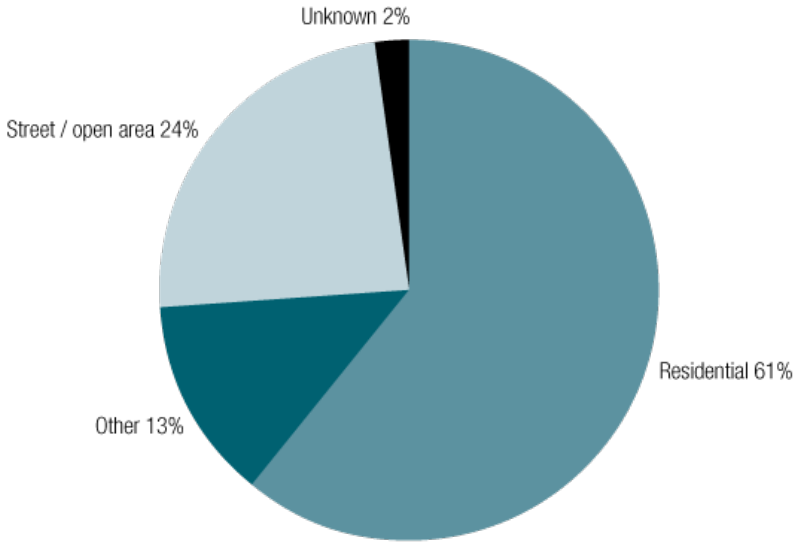
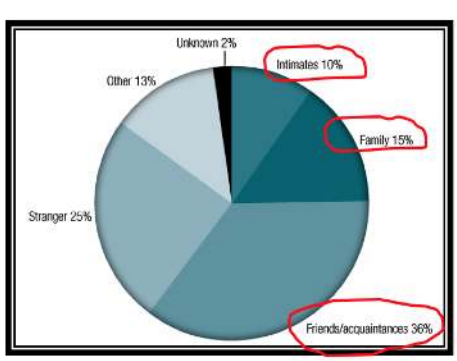
Incident location in 2006-07 (%)

Source: AIC (n=260)

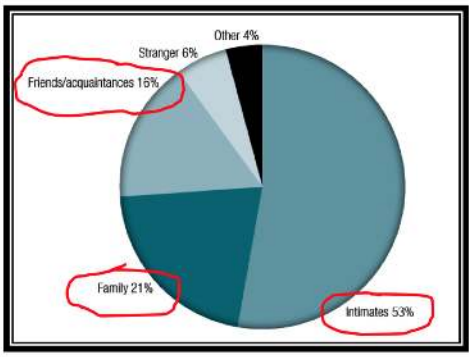


Source: ABS 1301.0 - Year Book Australia, 2001

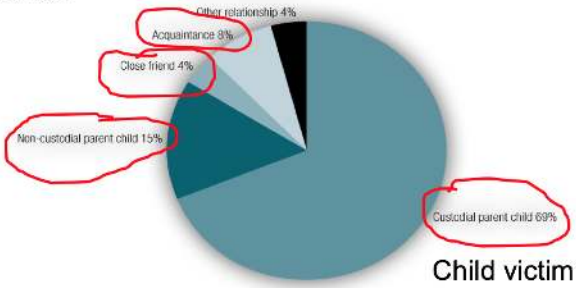
- 80% of murder committed by someone known to the victim
- Women more likely to kill husbands, followed by ex-husbands, defactos, lovers & their kids
    - Source: ABS 1301.0 - Year Book Australia, 2001



Male victim & offender



Female victim & offender



Child victim & offender

- Cases of serial killers
    - Eg. Ted Bundy; Luis Garavito; Pedro Lopez ('Monster of the Andes') ; Jeffrey Dahmer

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    - 20 serial killers active in any given year in US accounting for 1% of all murders (Fox & Levin 2003)
- Why do serial murderers kill?
- Differ from mass murderers
- Fox & Levin's (2003) typology of serial killers:
    - Thrill killers
    - Mission killers
    - Expedience killers
- Fox & Levin's (2003) typology of mass murderers:
    - Revenge killers
    - Love killers
    - Profit killers
    - Terrorist killers

Female Serial Killers

- Estimated 10-15% of all serial killers
    - Keeney & Heide (1994)
        - Studied 14 female serial killers
        - Found differences between the way men and women killers carried out their crimes

6.3: The Nature, Prevalence and Characteristics of Intimate Partner Violence

Intimate Partner Violence (IPV)

- Intimate partner violence includes:
    - Spousal abuse (wife and husband)
    - Unmarried intimate partners (don't need to share residence)
- The Domestic and Family Violence Act 1989 (Qld) defines domestic relationships in s.11(A) as:
    (a) a spousal relationship
    (b) an intimate personal relationship
    (c) a family relationship
    (d) an informal care relationship
- According to s.11(1) domestic violence includes:
    (e) wilful injury;
    (f) wilful damage to the other person's property;
    (g) intimidation or harassment of the other person;
    (h) indecent behaviour to the other person without consent;
    (i) a threat to commit an act mentioned in paragraphs (a) to (d)
- World Health Organization (2002)
    - Approx 50% of all women who die from homicide are killed by current or former husband/boyfriend
    - ¼ women will experience sexual violence by an intimate partner in their lifetime
    - Estimates that 3% of women in Australia say have been assaulted by an intimate partner

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- Estimates from the USA indicate that as many as 12% of all marriages involve physical abuse towards the woman.
- No typical profile of an abuser, although alcohol or drugs seem to exacerbate the problem and may provide abuser with excuse for behaviour (Frieze & Browne, 1989)
- 'Pitbulls' vs 'Cobras'Study of 200 couples involved in IPV (Jacobson & Mordechai 1998)
- Once abuse occurs it is likely to be repeated (Frieze & Browne, 1989)
- Cycle of violence & battered women's syndrome

Gender and IPV

- Is violence in intimate relationships perpetrated by women as often as men?
- According to research, the majority of victims are women (85%), being up to 8 times more likely than men to be assaulted by an intimate partner (Greenfield et al., 1998)
- Are the consequences of violence the same for women and men?
    - According to Dobash and Dobash (2004):
    - Men were more likely to have been violent in preceding year
    - Level of violence higher by male perpetrators
    - Women more likely to sustain injuries
    - Violence perpetrated by men rated as more serious
- But should not ignore violence by women.

6.4: Emerging forms of interpersonal violence - hate crimes and stalking

- Hate crimes/Bias crimes
- Stalking

Hate Crimes

- Violent acts directed toward a particular person or members of a group because they share a racial, sexual, religious or gender characteristic.
- 1998 murder of Matthew Shepard
- Indian student bashings in Melbourne in 2009/10

The Roots of Hate

- McDevitt & Levin (1993) identify 3 motivations for hate crimes:
    1. Thrill seeking hate crimes
    2. Reactive (defensive) hate crimes
    3. Mission hate crimes
        - KKK, Skinheads

Stalking – History and Definitions

- History:
    - Domestic violence
    - Celebrity stalking

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- Ambiguous definitions in the research – continuum of behaviour that may be perceived as stalking
    - A course of conduct directed at a specific person that involves repeated physical or visual proximity, nonconsensual communication, or verbal, written, or implied threats sufficient to cause fear (Siegal, 2006)
- Stalking legislation first introduced in Australia in QLD in 1993 and was further amended in 1999

Stalking and Gender

- Best estimate of stalking at this time:
- Tjaden and Thoennes (1998) - national survey on violence against women
    - 78% of women had been stalked and 22% of men
    - Women reported that majority (94%) of the stalkers were men - 48% were intimates
    - stalking lasted for 1.8 years on average
    - Appears to be gender differences in perpetration and victimisation

Stalking and Violence

- e.g., Thompson & Dennison (2008)
    - Some form of relational pursuit normative (75%)
    - 34% - 49% engaged in violence (highest when participants had engaged in 10 or more intrusions)
    - Long term impact immense

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Module 7: Eyewitness Testimony

7.1: Miscarriages of justice

Justice on Trial

- Miscarriages of Justice
    - Christianson's (2004) analysis of 42 cases where innocent victims were convicted
    - E.g. Andrew Mallard in Australia
- Colombia University Law School (2002) study
    - 68% if all death verdicts between 1973 – 1995 were reversed due to errors
    - 10% sent back for retrial resulted in non-guilty verdicts
    - 199 murder suspects exonerated
    - 125 rape suspects exonerated
- Variety of reasons for false convictions
    - mistaken eyewitness testimony the major cause of false conviction

Fallibility of Eyewitness Testimony

- Testimony of a witness very compelling, especially if witness appears highly confident
- But testimony can be unreliable
    - 2/3 of wrongful convictions in USA
    - Despite this, survey of police officers shows they still value eyewitness evidence and believe eyewitness are correct

7.2: Perception and Memory

Human Perception

- Perception is what a person sees, senses and experiences
- The senses require interpretation
    - So, perceptions may not always be an accurate or complete account of what has happened
- Interpretation of stimuli is also affected by past experiences and usually non-conscious
- Input of stimuli is also affected by individual defects

Human Memory

- Memory is dependent upon 3 stages:
    - Acquisition: encoding of stimuli
    - Retention: storage of information
    - Retrieval: accessing and communicating stored information
- Memories can change based on understanding of what happened and new experiences – *reconstructive theory of memory*

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- Memories can be unconsciously distorted, especially when exposed to new or misleading information – misinformation effect
- Other factors that may affect accuracy:
    - Time delay until giving statements
    - Quality of lighting
    - Whether witness's view was obstructed
    - Estimated distance between witness and crime

7.3: Suggestibility, The Misinformation Effect and Witness Confidence

Suggestibility and Memory

- Subtle changes in questioning can influence testimony
- Classic study by Loftus and Palmer (1974)
    - Participants viewed film of a multiple car accident

Group	Statement	Reported speed	(1 week later) Did you see broken glass?
1	How fast were the cars going when they smashed into each other?	41mph	32% (yes)
2	How fast were the cars going when they hit each other?	34mph	14% (yes)
3 (control)	No question about speed	32mph	12% (yes)

Misinformation Effect

- Process of questioning may also be a source of misleading information
- Misinformation Effect: when misleading information can alter one's memory of an event
- Loftus (1975)
    - Participants viewed film of car driving on country road
    - When questioned about film:

Group	Statement	(1 week later) Did you see the barn?
1	How fast was the car going as it 'passed the barn'?	17% (yes)
2	How fast was the car going? (no mention of fictitious barn)	3% (yes)

Effect of eyewitness testimony on jurors

- Loftus (1974) mock jury study
- Read 1 of 3 case summaries (with circumstantial evidence of defendant's guilt) of an armed robbery and murder

Group	Case	% of jurors said defendant guilty

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1	No eyewitness	18%
2	Eyewitness evidence called into question by defence team	72%
3	Eyewitness revealed to have poor vision	68%

Witness Confidence

- Regardless of accuracy of evidence, are confident witnesses believed more?
    - Witness confidence the single most important factor in juror's evaluation of witness evidence (Penrod & Cutler, 1987)
        - Correlation between eyewitness confidence and accuracy is approximately 0.20 (Cutler & Penrod, 1989)
    - Donald Thomson case
    - Appeared on live TV to talk about his research
    - Arrested a few weeks later for raping a woman

Confidence and Accuracy

- Confidence seen to be a marker for accuracy in court
- Therefore, non-confident witnesses should not necessarily be ignored
- Other confidence & accuracy issues:
    - Confidence is usually higher in target present rather than target absent line-ups
    - Relationship between accuracy and confidence higher for recall tasks compared to recognition tasks

7.4: Factors That Affect Eyewitness Testimony

- Optimality encoding hypothesis
    - Confidence-accuracy relationship will be at its highest level when encoding, storage and retrieval conditions are optimal
- The 10-12 second rule
    - Eyewitnesses who id a person from a lineup quickly tend to be more accurate than those who take more time (Dunning & Peretta, 2002)
- System variables (factors that can be controlled by people in the criminal justice system (and therefore improved to reduce inaccuracies)
    - Number of people in line-up
    - How well others in line-up represent suspect
    - How police interview eyewitnesses
- Estimator variables – sources of error or accuracy beyond control of criminal justice system, relates to perception and memory of eyewitness
    - Stress experienced by witness
    - Period that witness viewed events/suspect

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- Estimator variables - also referred to as situational factors
    1. Temporal factors
        - The greater the period for viewing a face, the better the detail can be recalled
        - The fewer the faces viewed in a photo array, the more accurate their identification
    2. Detail significance
        - Weapon focus
        - Significance
        - Violence of event

7.5 Line-Up Procedures and Problems

Problems with line ups

- Practices concerning lineups vary from country to country
    - UK particularly advanced
    - Penrod (2003) study
        - 20% were lucky guesses
        - Estimated up to 50% of witnesses who make a choice are guessing
- Problems with lineups include (Busey & Loftus, 2007):
    - Inadequately matched fillers
    - Physical or bias (oddball)
    - No double-blind procedure
    - Unconscious transference

Relevant Judgement Theory

- Answers the question of how eyewitnesses choose a culprit from a line up & how some choose a culprit when the real culprit is not there.
- To reduce wrongful identifications if the culprit is not there, witness should be given an explicit warning that the culprit may NOT be there
    - Wells (1993) study
        - Line-up with culprit – 21% failed to make choice
        - Line-up without culprit – 32% failed to make choice;
        - 54% chose someone else as the culprit

- How do you assess if witness is susceptible to relative similarity effects? (Dunning & Stern, 1994)
    - Use a dual line up
        - If witness resists choosing from the blank line up, more likely they will choose accurately in a proper line up later
    - Use a sequential procedure
    - Use the ‘show-up’

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Improving the validity of line-ups

- Wells et al (1998) proposed 4 general principles:
    1. The person who conducts the lineup or photo-spread should not be aware of who is the suspect
    2. The eyewitness should be told explicitly that the person administering the lineup does not know which person is the suspect in the case
    3. The suspect should not stand out in the line-up or photospread as being different from the distractors based on the eyewitness's previous description of the culprit or based on other factors that would draw extra attention to the suspect
    4. A clear statement should be taken from the eyewitness at the time of the identification and prior to any feedback as to his or her confidence that the identified person is the actual culprit
- Other suggestions:
    - Tell the witness the offender may NOT be present

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Module 8: Profiling

8.1: FBI-Style Offender Profiling - How Is It Done and Is It Effective?

- Controversy – is it science and is it effective?
- Key terms
    - Crime scene profiling
    - Psychological profiling
    - Offender profiling

Serial Killer Profiling

- FBI Behavioural Science Unit – majority of research conducted on 36 offenders
- Serial homicide: "three or more separate events in three or more separate locations with an emotional cooling off period in between homicides" (Douglas et al, 1992, p.21)
- Ferguson et al (2003)
    - Three or more victims (multiple and discrete events)
    - Killing was pleasurable, stress relieving etc (not just functional)
    - Not directed by a political or criminal organisation

Main features of FBI profiling

- A willingness to encompass experience and intuition
- Weak empirical database, but method widely used
- Concentrated on more bizarre crimes such as serial killings with a sexual component
- Involves contact with all investigating officers

Key Terms

- Modus operandi: way in which the offender commits the crime
- Criminal signature: aspects of the crime which are idiosyncratic or characteristic of the offender

FBI Profiling Process

- Stage 1 – Data assimilation – eventually identify crime signature
- Stage 2 – Crime scene classification
    - Organised (planning)
    - Disorganised (chaotic)
- Stage 3 – Crime scene reconstruction – generate hypotheses
- Stage 4 – Profile generation (e.g., demographics, behaviour, personality, physical characteristics)

Case Study: Claremont Killer

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- Claremont serial killer – largest murder investigation in Australia's history
- Victims
    - Sarah Spiers (18): 26 January 1996 (disappeared, body never found)
    - Jane Rimmer (23): 9 June 1996
    - Ciara Glennon (27): 14 March 1997
- All disappeared from same area in Claremont, Perth
- Macro Taskforce established
- Investigation used criminal profiling
- Claude Minisini, FBI trained, from Melbourne concluded:
    - Offender was an organised killer
    - He would have a job
    - Drive a late model car and keep it meticulously clean
- Widespread media campaign, members of public asked to look for the following signs:
    - That work colleagues may have a guilt-ridden response to the discover of the most recent body
        - Absence from work
        - Inability to remain at work
        - Sudden deterioration in work performance
        - Inability to concentrate
        - Experiencing headaches
        - Sudden changes in plans
- Taxi drivers were suspected
- In Easter 1997 DNA testing of almost all taxi drivers in Perth took place (up to 3500 drivers) – but it did not progress the investigation
- A prime suspect (who supposedly fits the profile) was then subjected to constant overt surveillance after a decoy operation (surveillance continued for a couple of years)
- The Macro Taskforce also distributed questionnaires to 'persons of interest'
- Polygraph tests also used for up to 50 potential suspects
- To date the crimes remain unsolved (up to 3000 people have been investigated)

Effectiveness of FBI Profiling

- Little new research on FBI profiling concepts
- While profiling may not necessarily be helpful or accurate, it may aid the police investigation in terms of prioritising information (although could have opposite effect)
- May serve to eliminate suspects as much as it helps to identify offender
- May be generally informative but not identify offender in specific cases
- Aid information gathering from crime scene

8.2: Geographical Profiling

Investigative Psychology

- Pioneered by psychologist David Canter

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- Focus on quantitative analysis to look at similarities in crime characteristics (including geographical locations and chronology of offending)
- Geographical profiling – including crime hotspots, routine activity theory, and the spatial characteristics of crimes (location and linked characteristics)

Routine Activity Theory (Cohen & Felson, 1979)

- Convergence in time and space of a motivated offender, suitable target, absence of guardians
- Implication: offenders learn crime possibilities as part of their daily routines: visiting friends, playing sport, going to work/uni etc.

Rational Choice Theory

- Economic model
- Further an offender travels from home/base greater the risks

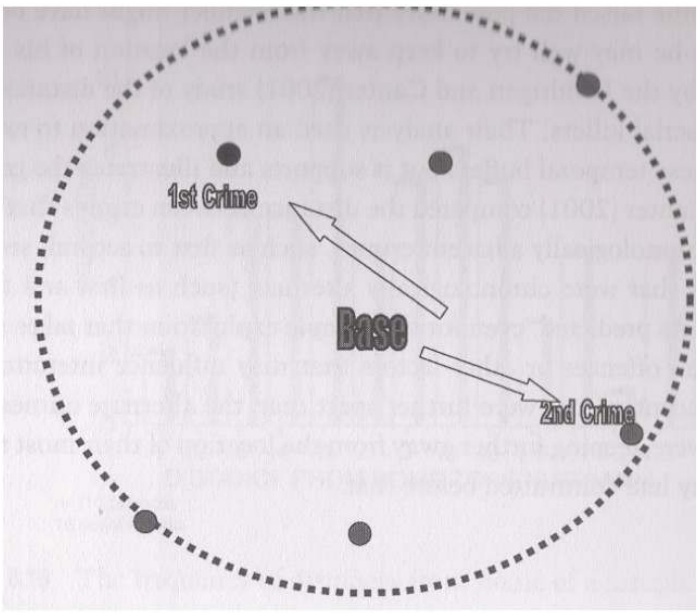
Criminal range

- Greater an offenders resources the more likely it is they will travel in committing offences but, offenders have a typical range
- Resources, familiarity & opportunity impact upon comfortable range
- Canter & Youngs (2009): Study of 15 serial rapists, 110 offences. All offences committed within 1.3 miles of home, vast majority committed more than 0.5 mile from home (hypothesised risk of being recognised was too great within first half mile).

Marauder Model

- Marauders operate from a home/base
- Canter & Gregory (1994): Identify the two crimes furthest apart. Join by a line and use it as the diameter of a circle. Hypothesised offender resides within the circle.
- Australian evidence (Meaney, 2004).

Offence	Percentage of Marauders
Arson	
Rapists	
Burglary	



Marauder M

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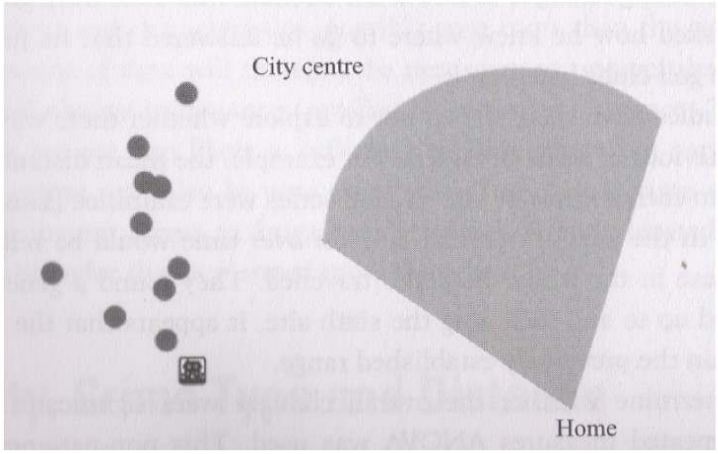
Windshield Wiper Pattern

- Some routes are travelled more often by people. Offences may be more often committed along those routes of non-criminal activities
- Lundrigan & Canter (2001) investigated 79 US serial killers to ascertain average angle, which was 60 degrees



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Mental Buffers

- People have 'mental maps' of environment
- Geographical features impact upon mental maps and therefore offending

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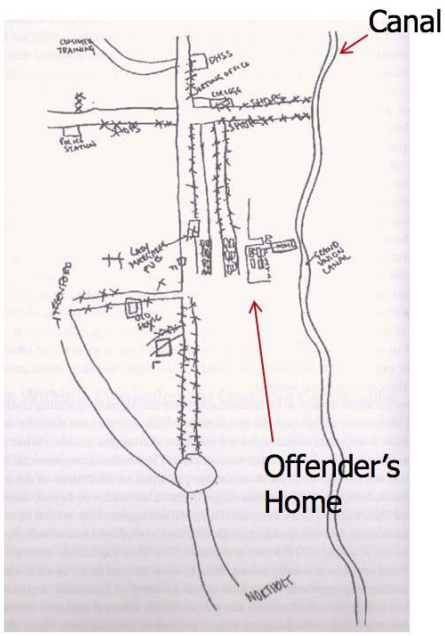
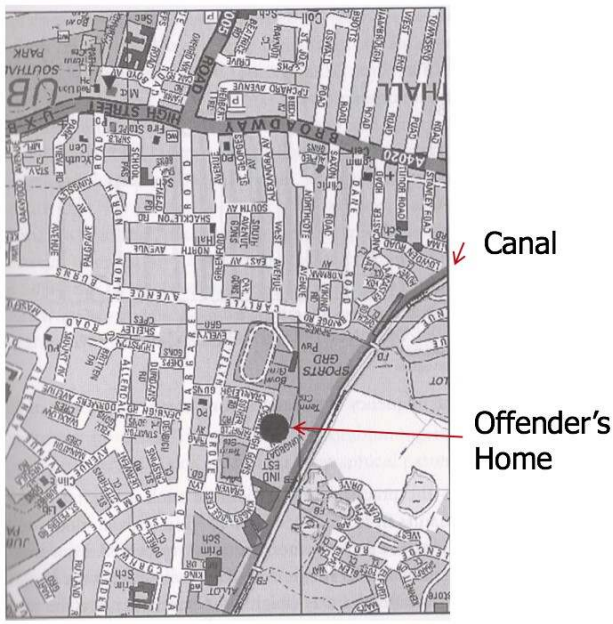
- Geographical features such as rivers, main roads, parks etc can distort mental maps and create boundaries
- Crossing boundaries may be perceived as a longer journey (Baker & Donnelly, 1986)
- Effect may be to create a mental barrier





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8.3: Statistical Profiling

- Focus on the behavioural characteristics of the offences
    - Examine crime scene records to identify salient behaviours
    - Identify distinguishing features of the offender
- Need large data sets to generate statistical profile (typically known as smallest space analysis)
- Idea is that some behaviours in a crime (e.g., rape) are likely to occur together, whereas other behaviours might rarely occur with certain other behaviours (see text)

Profiling from criminal histories

- Davies (1997) studied a sample of rapists (87% had prior criminal convictions)
- Investigated relationship between type of behaviour during/after the rape
- Using crime scene features, found that:
    - Previous record for burglary predicted by fingerprint precautions, theft from victim, forced entry to premises, alcohol at or before crime
    - Previous record for violent crime predicted by use of extreme violence, comments to police, deliberately lying
    - Lack of previous convictions for sexual offences predicted by lack of fingerprint precautions and precautions in leaving crime scene, presence of alcohol at or prior to crime, forced entry or confidence approach

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Summary of statistical profiling

- The statistical approach taken by Canter can empirically test some of the assumptions made using the FBI profiling approach
- Covers a broader range of crimes, not just rape and serial killing (e.g., arson, burglary, fraud)
- Empirical investigations are ongoing and new methods are being developed; importantly this has assisted to move criminal profiling into a more scientific pursuit

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Module 9: False Allegations and Confessions

9.1: False Allegations and Repressed Memory

Main Areas of False Allegations

- False allegations of child physical and sexual abuse (made by professionals)
- False allegations of sexual abuse against a conflicting parent in a divorce case
- False-memory (repressed memory) syndrome

Repressed Memory

- Existence of repressed memories is controversial
- Unconsciously suppressing unpleasant memories (keeping them out of awareness) for an extended period of time
- Most often related to child sexual abuse
- Problem with acceptance of repressed memories is how they come to be retrieved – through therapy and sometimes hypnosis
- Possible that memories are distorted or even false
- Even when memories are recovered, question of their accuracy remains

Case Study

- Case Study – Holly Ramona (18 years old)
- After seeking counselling for anorexia and bulimia, Holly joined group therapy for women with bulimia, of which some had been sexually abused
- Started having 'flashbacks' of her father sexually abusing her and engaging in bestiality
- Holly took sodium amytal ('truth serum') and recalled in greater detail the 'flashbacks' and being raped by her father (from age 5 – 16)
- Holly sued her father, who in turn sued the counsellor and psychiatrist who administered the sodium amytal
- The father was successful in his lawsuit, being awarded $500,000 (much less than he spent on the lawsuit)

Psychological Experiments of Repressed Memories

- False memories of abuse (Ofshe, 1992) – case study – Paul Ingram arrested for child abuse, developed false memories of abuse
- False memories were created by techniques common in therapy sessions , combined with client's ambiguous recollections as evidence of abuse and encouraging them to think about events

9.2: False Allegations - Influential Factors and Possible Improvements

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False Allegations and Children

- Various studies have examined children's recollection of fictitious events (e.g., Bruck et al., 1995; Ceci et al, 1994; Poole & Lindsay, 1998)
- According to Poole & Lindsay (1998), children must be able to:
    - Understand they the interviewer only wants them to recall events that happened to themselves
    - Know the source of their knowledge
- Example: Mr Science study
    - 2 in 5 children recalled events as if real (as opposed to in story)
- Pynoos and Nader (1989) - sniper attack, memories created by exposure to others who experienced the trauma

Suggestibility

- Active suggestions – something is actively suggested to a person
- Passive suggestion – person under a state of suggestion
- "Suggestibility refers to the extent to which all aspects of a child's memory for events are influenced by a variety of social and psychological factors" (Bruk & Ceci, 1994; Ceci, 1995, cited in Howitt, 2012, p. 305-8)

Improving Accuracy of Allegations

- According to Berliner & Conte (1993), strategies include the:
    - Indicators approach – evidence distinguishing true and false reports
    - Standards approach – best practice/rules of conduct for conducting investigations and assessments to avoid contamination of reports

9.3: False Confessions

Psychology of Confessions

- Interrogative tactics – purpose is to obtain a confession or useful information that will assist a conviction
    - Maximisation / minimisation
- Between 40-76% of interrogations led to a confession
- Coercion exists if a confession "was elicited by brute force; prolonged isolation; deprivation of food or sleep; threats of harm or punishment; promises of immunity or leniency; or, barring exceptional circumstances, without notifying the suspect of his or her constitutional rights" (Kassin, 1997, p. 222, cited in Bartol & Bartol, 2004).
- Setting
    - Must ensure isolation from family and friends or familiar surroundings
    - Private room, sparsely decorated, nothing to divide attention
- Conduct

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- Stand while suspect sits, refuse requests to smoke (unless to show compassion when going to confess), violate personal space when suspect is answering questions, demonstrate calm and systematic approach; be fully informed
- Also communicate sympathy for suspect and must be treated with respect
- Audio or videotape interrogation, avoid taking notes

Police Interrogation Tactics to Induce False Confessions

- According to Ofshe & Leo (1997), activities of police can lead to:
  - Stress-compliant false confessions – stressful, endless questioning
  - Coerced-compliant false confessions – threats or promises
  - Persuaded false confessions – become convinced that they probably did commit offence

False Confessions

- Three types of false confessions (Kassin & Wrightsman, 1985; Kassin & Kiechel, 1996):
  - Voluntary: self-incriminating without external pressure whether through need for fame, recognition or self-punishment
  - Coerced-compliant: confession due to social/external pressure but do not privately believe they committed the crime
  - Coerced-internalised: when innocent suspect comes to believe they committed the crime (false guilt)

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Module 10: Mental Health Law and Offending

10.1: Mental Illness and Crime

- Perception in society that mentally ill are dangerous
- Number of mentally ill people in criminal justice system is due, in part, to capacity of mental health system to offer facilities and treatment
- A study of 500 homicide cases (Shaw et al., 1999) found that:
    - 44% had a mental disorder in their lifetime
    - 14% had symptoms of mental illness at time of offence
    - In year before offence, 8% had contact with mental health services

Problems with understanding relationships

- Confounding factors (e.g., gender, social class, age)
- Overlapping definitions
- Effects of medication
- Sampling problems
- Misclassification of mentally ill
- Social trends

Clinical aspect / symptoms

- According to O'Kane and Bentall (2000), symptoms associated with violence include:
    - Delusions and passivity delusions with paranormal influences
    - Psychotic individuals with organised delusions
    - Paranoid symptoms
    - Command hallucinations

Violence in the mentally ill

- Early starters
    - Stable history of antisocial behaviour
    - Not usually identified as mentally disordered in CJS
    - When in acute stages of mental illness show no pattern of antisocial behaviour
- Late starters
    - No early history of antisocial or criminal behaviour
    - Antisocial behaviours emerge around same time as symptoms of mental illness
    - More likely to be helped by treatment of the mental disorder (Hodgins, 1997; Hodgins, Cote & Toupin, 1998)

Considerations

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- Police may more easily detect mentally ill offenders
- Co-morbidity between major mental disorders and substance abuse
- Deinstitutionalisation means that receiving adequate treatment may be more problematic

10.2: Ralph Tortorici Case Study

Ralph Tortorici (1968 – 1999)

- Diagnosed with paranoid schizophrenia in adolescence
- Believed government was controlling his behaviour and giving him orders through a microchip implanted in his brain and a listening device in his penis (as a child he had surgery on his penis)
- A bright individual who was completing a psychology major at university (SUNY Albany)
- In 1992 complained to police that the microchip was instructing him to molest young girls – he was admitted to a psychiatric centre for treatment
- In December 1994, dressed in military fatigues, he took a semiautomatic rifle, 80 rounds of ammunition and a hunting knife and entered a lecture hall with 35 students, threatening to kill his hostages and demanding to see the president and governor
- He fired at the projection screen
- Two hours into the siege he shot and severely maimed a student when several students tried to overpower him while another student received minor knife wounds
- He was arrested and charged with attempted murder, assault, kidnapping, reckless endangerment, criminal use and possession of a firearm

Trial

- Initially he was found incompetent to stand trial and received counselling while in a psychiatric hospital, but he refused medication
- Ten weeks later Tortorici was deemed competent to stand trial
- He claimed the insanity defence
- A psychiatrist hired by the prosecution examined him and concluded:
    - That he was unable to assess Tortorici's mental state at the time of the incident (re: insanity defence)
    - That he was not fit to stand trial
- Both the defence and prosecution ignored this recommendation and indicated they were ready to proceed and the judge agreed
    - Prosecution intimated that competence was knowing the difference between a judge and a grapefruit
- So, what is competence to stand trial?

10.3: Competency to Stand Trial

- Relates to the defendant's mental capabilities at the time of the trial
- Important in adversarial system

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- Issue is more common in United States (60,000 case per year compared to 20 in England and Wales)
- Issue of competency for young people
- According to Grubin (1996a, cited in Howitt, 2009) the criteria for competency include:
    - Sufficient ability to enable the defendant to follow court proceedings;
    - The ability to understand that jurors may be challenged (objected to);
    - The ability to comprehend the details of the evidence;
    - An ability to understand the meaning and implications of the charges;
    - The ability to instruct lawyers effectively
- The focus is on the abilities of the defendant "to communicate a choice, to understand relevant information, to appreciate the situation and its consequences, and to rationally manipulate relevant information" (Grisso & Appelbaum, 1991, p. 378)
- Doesn't require that the defendant is diagnosed with a mental disorder
- Court decides whether the defendant is competent or not, but based on recommendations of a psychologist or psychiatrist

Queensland Competency to Stand Trial

- Under the Queensland Mental Health Act 2000, fit for trial means "fit to plead at the person's trial and to instruct counsel and endure the person's trial, with serious adverse consequences to the person's mental condition unlikely".
- Queensland Mental Health Court determines:
    - Criminal responsibility (of unsound mind or diminished responsibility)
    - Fitness to stand trial (and if unfit, whether this is likely to be permanent)
- Constituted by a Supreme Court judge, assisted by two psychiatrists (decision made by judge)

Consequences of 'Not Competent'

- Following determination of fitness, MHC may remove individual with a mental illness or intellectual disability from the CJS into the mental health system
- Court may make forensic order to detain person in an authorised mental health service or high secure unit for treatment or care; or order limited community treatment (non-contact order also an option)
- Major facilities:
    - The Park – Centre for Mental Health (Wacol)
    - The Barrett Adolescent Centre (ages 13 – 17 years)
- Criminal proceedings are discontinued if permanently unfit for trial.
- Mental Health Tribunal commenced in 2002 and reviews fitness for trial cases every 3 months for first 12 months, then at 6 month intervals (normally for 3 years but up to 7 years if offence carries life sentence).
- Tribunal has power to:
    - Discharge patient
    - Approve limited community treatment
    - Order patient's transfer to another hospital or removal from Qld

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Competence Assessment

- The form of competency assessment is inconsistent, but assessments typically include the use of forensic instruments
- Interdisciplinary Fitness Interview (Golding, Roesch & Schreiber, 1984; Golding, 1993) – structured interview, designed to be conducted by a psychologist and lawyer; little research conducted, may be impractical with lawyer participation
- MacArthur measures (e.g., MacSAC-CD and MacCAT-CA) – MacSAC-CD appears to be superior to other measures with more substantial research

Tortorici's Competence

- Although Tortorici understood the charges against him and the general legal proceedings, the concern of the psychiatrist for the prosecution who assessed him was:
    - That he believed the individuals involved in the court processes were being influenced by government forces through waves
    - That because of his delusions, there was no joint understanding of the meaning of the trial between the defendant and his lawyer
- Tortorici appealed arguing incompetence to stand trial, but it was overturned twice
- Emphasis was placed on finding of fitness one year prior to trial, willingness of defence to take the case to trial (in best position to judge?) and some evidence by psychiatrist of prosecution indicating competence
- Raises issue of whether threshold for competence is too low and highlights limitations of lawyers and judges to judge competency

10.4: Criminal Responsibility

- Four elements are generally required for criminal responsibility (Carson & Felthous, 2003):
    - Actus reus: defendant committed the illegal act
    - Mens rea: defendant committed the act with the requisite intent
    - Causation: actions of defendant must have caused the proscribed consequences
    - Absence of defence: defendant must not have an acceptable legal defence, such as insanity

Diminished Responsibility

- Defendant not criminally liable due to impairment in mental functioning (such as intellectual impairment)
- In UK & Queensland used only as a defence in murder trials
    - Queensland – if MHC finds diminished responsibility in case of murder, murder charge is discontinued but other offence to which the proceedings relate for the offence of murder may be continued.
    - Claims may be supported by psychiatric or psychological evidence of mental disorder

Insanity Defence

- 'Insanity' is a legal concept, not a psychiatric definition.

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- A person who makes a successful insanity plea is considered incapable of knowing the difference between right and wrong at the time of the crime
- Few people with a mental disorder will meet the legal criteria for insanity.
- The common law test (based on M'Naghten's Rule) provides a strict standard and relies on the concept that defendant was suffering a 'disease of mind' such that they were incapable of knowing (a) what they were doing, and (b) that it was morally wrong.
- Has been criticised for being too narrow and not providing for degrees of incapacity

Consequences of NGRI

- Mental Health Court can find a person to be of 'unsound mind'
    - 'Unsound mind' is defined as Criminal Code definition of 'insanity' "but does not include a state of mind resulting, to any extent, from intentional intoxication or stupefaction alone or in combination with some other agent at or about the time of the alleged offence".
- If MHC finds defendant is of unsound mind, criminal proceedings are discontinued. If defendant is not of unsound mind the matter will be returned to the criminal court
- If of unsound mind the MHC may make forensic order to detain person in an authorised mental health service or high secure unit for treatment or care; or order limited community treatment (non-contact order also an option) depending on perceived dangerousness of the individual to themselves and the community
- In determining a forensic order MHC must consider:
    - Seriousness of the offence
    - Person's treatment and care needs
    - Protection of the community
- Mental Health Review Tribunal reviews patients every 6 months or on application

Tortorici Insanity

- During the Tortorici trial the prosecution argued that while mentally ill, the defendant did not meet the legal criteria for insanity
- A jury found Tortorici guilty and he was to the maximum term of 20-47 years
- Defense requested that judge set verdict aside but judge declined
- Tortorici was incarcerated in a maximum-security prison and struggled to adjust with his mental illness.
- He was confined for 3 years, moving backwards and forwards between prison and a special prison unit for mentally ill offenders before committing suicide in 1999 (after a previous suicide attempt one year into his sentence)
- Could this have been handled better?

Queensland Court Statistics

Court	No. Defendants Finalised 2010/11
Magistrates Court	178,567
District Court	5,854

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Supreme Court	1,504

- 226 matters referred to Mental Health Court in 2010/11
    - 48% of referrals made by defense counsel
- Therefore, approx. 0.12% of defendants referred to Mental Health Court
- Supreme Court finalised 98 defendants for 'Homicide & related offences' in 2010/11
    - 55 proven guilty (56%)
    - 21 acquitted (21%)
    - 22 withdrawn by prosecution (22%)
- Mental Health Court – 12 references for murder in 2010/11
    - 2 references resulted in a finding of unsound mind and an forensic detention order made (17%)
    - 1 reference resulted in a finding of diminished responsibility (8%)
    - Remainder – reference withdrawn or matter referred back to Supreme Court to proceed
- Mental Health Court – 12 references for attempted murder.
    - 50% found to be of unsound mind and a forensic detention order made
- Take away message – referral to the Mental Health Court is rare. And if matter is referred, majority do not result in a finding of unsound mind (at least for murder)

10.5 Psychopathy and Mental Illness

- Psychopaths appear to lack physiological signs to unpleasant stimulus and therefore may not learn to anticipate adverse consequences to their behaviour
- But are they mad or bad and what are the implications for diminished responsibility and the insanity defence?
    - An aggravating or mitigating factor in offending?
    - Punishment versus detainment for community safety

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Module 11: Juries and Decision Making

11.1A: What is a jury? How and when are they used in the CJS?

- Only a relatively small number of criminal cases involve a jury
    - Available in higher courts (District and Supreme) criminal trials & in rare circumstances civil trials
        - Queensland - 12 jurors for criminal trials; 4 for civil trials
    - Queensland 2010/11 only 4% of defendants were finalised in the District or Supreme Court
    - Vast majority of people who appear in Court plead guilty, so a jury not required
        - 2010/11 Australia-wide 88% of defendants found guilty actually pleaded guilty (ABS, 2012)
- A pool of potential jurors are drawn from the relevant population (using electoral roles)
    - In Qld jury selection and procedures are governed by the Jury Act 1995
    - Juries should be representative of one's peers, but realistically this is not the case
        - Younger people (uni students), older people (retirees) and unemployed tend to be over-represented on juries
    - Potential jurors can automatically excluded based on occupation, criminal history or if over age 70
    - Potential jurors can apply to be excluded from jury duty for a certain period based on employment or medical condition (requires letters of support)
- The first stage of the trial is where eligible jurors are assessed and empanelled
    - In a criminal trial, the prosecution and defence are entitled to 8 peremptory challenges each (s. 42(3)). These challenges have the effect of removing a potential juror without giving a reason.
    - In a criminal or civil trial a party may challenge for cause against a person selected to serve on the jury (s. 43(1)) on the grounds that:
        - The person is not qualified for jury service (s. 43(2)(a))
        - The person is not impartial (s. 43(2)(b))
    - The judge will uphold or dismiss the challenge for cause based on the evidence and submission of the party (s. 43(6))

11.1B: What is a jury? How and when are they used in the CJS?

- Choosing a foreperson
    - Usually male, middle-aged, professional
    - Place at table influences choice
    - First person to speak/mention choosing
    - Foreperson tends to speak more and control polling
    - Foreperson 'individual attitudes, beliefs and prejudices as they are brought out in discussions of a particular point at issue' have greater influence on verdict than personal or social characteristics (Baldwin & McConville, 1980, p.41)

11.1C: What is a jury? How and when are they used in the CJS?

- Jury deliberation

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    - Can request clarification on law or review evidence
    - Most deliberations are not lengthy
    - Queensland, NSW and ACT require unanimous decision, other States permit majority verdict (usually after a period of time has elapsed and 10 or more jurors agree). Has been a push in Qld for majority decision.
- Most of what we know about jury decision making comes from:
    - Archival research
    - Questionnaire surveys
    - Mock juries
    - Shadow juries
    - Post trial-juror interviews
    - Queensland – offences of:
        - publishing information about jury deliberations
        - seeking information from a juror or former juror
        - juror or former juror disclosing information
        - max. Penalty 2 years imprisonment

11.2: Factors Affecting Decision Making

Factors Affecting Jury Deliberations

- According to Meyers (1979), jury decisions of guilt were influenced if:
    - A weapon was recovered
    - A larger number of witnesses were specified
    - Statements concerning involvement/lack of involvement in crime
    - Previous convictions
    - Defendant unemployed
    - Victim was young
    - Less serious crime
- According to Meyers (1979), jury decisions of guilt were not influenced by:
    - Eyewitness identification
    - Expert testimony
    - Recovery of stolen property
    - Victim's criminal history or relationship
    - Past conduct of victim

Other factors: Defendant and victim characteristics

- Physical Attractiveness
    - Attractiveness may reduce guilt and punishments, but may also be influenced by gender and type of crime.

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        - Jurors harsher on an attractive defendant if they used looks to commit crime involving deception (Signall & Ostrove, 1975)
- Social Attractiveness
- Attitudinal Attractiveness
    - Where attitudes of defendant are similar to mock juror, they are less likely to find him/her guilty, or when guilty, give a reduced sentence
    - Overall, the influence of attractiveness may be mitigated by the jury deliberation process
- Criminal History
    - Queensland – criminal history cannot form part of evidence (except in exceptionally rare cases)
- Courtroom Behaviour of Defendant

Other factors: Juror characteristics

- Research tends to find:
    - Female jurors more likely to convict in relation to rape and child abuse
    - Younger jurors more likely to acquit (except if highly educated, in that case more likely to convict)
    - Conflicting findings about conservatism
    - Juror authoritarianism relates to more severer sentence, but not probability of conviction.

Other factors: Pre-trial publicity

- Does pre-trial publicity prejudice trial outcomes?
    - Few cases receive widespread media attention
- Potentially prejudicial information (Studebaker et al., 2000):
    - General amount of publicity given to crime
    - Negative characteristics of the defendants
    - Emotional suffering of victims
    - Information about putative confessions
    - Suggestions about motives
    - Information about eyewitness identifications

11.3: Group Processes and Research Limitations

Group Processes

- Deliberation Style
    - Verdict-driven: reach a verdict as soon as possible
        - Majority decision juries tend to be more verdict-driven
    - Evidence-driven – focus on discussion and evaluation before taking a vote (tend to deliberate longer, consider evidence and have greater satisfaction with jury experience)
        - Unanimous decision juries tend to be evidence driven
    - Limited research but verdict-driven appears to be more common in practice
- Jury decision making is a function of:

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- Characteristics of individual jurors
    - ability to attend to, interpret and remember evidence
    - heuristics – expectations about how people are supposed to act and inferences drawn from witness and victim behaviour
- Group processes
    - Interactions and discussions between two or more jurors
    - Men talk more than women and foreperson talks a disproportionate amount of time (Ellsworth, 1993)
    - Length of deliberation – tendency for minority jurors to move closer to majority view over time; number of minority jurors (link to conformity and Asch's experiment)
    - Timing of ballots (influenced by foreperson)
    - Group (jury) size and decision rule
        - Larger juries and a requirement for unanimous decision more likely to result in a hung jury
- Timing of ballots:
    - Kalven & Zeisel (1966):
        - Significant relationship between first ballot votes and final jury verdict
        - In most of the trials studied, juries took 45 minutes discussing the case before taking a first ballot
        - 11% of trials jurors had a ballot without any discussion taking place
    - Davis et al (1988)
        - Timing of straw poll on individual first-ballot votes (before any discussion - v- after 5 mins discussion) significantly influences how jurors will change initial verdict preference

Acquittals

- Queensland 2010/11 Higher Court adjudicated outcomes:
    - Murder – 28% of defendants acquitted
    - Sexual assault – 20% of defendants acquitted
- McCabe & Purves (1972)
    - Surveyed solicitors and judges about 500 trials - 25% of prosecution counsel and one-third of judges were dissatisfied with jury's verdict; 12% were 'perverse outcomes'
- Baldwin & McConville (1979)
    - Surveyed judges, counsel and solicitors about 266 contested trials:
        - 12.5% were 'perverse acquittals' (jury verdict against the weight of the evidence)

Jury Simulation Research

- Limitations
    - Researchers lack legal knowledge (develop unrealistic scenarios)
    - Written hypothetical cases are often simplistic versions of real trials; more recent audio-visual versions tend to be short
    - Use of students as mock jurors

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- Lack of acknowledgement of differences between actual jury research and mock jury research
- Jury research often assesses decisions of individual jurors rather than verdict as an outcome of jury deliberation
- Likelihood that research will improve system

11.4: Scientific Jury Selection (USA)

- Because the voir dire process in the USA is different to Australia, research has been conducted in the USA to develop techniques to select juries
- Prediction of verdict based on stereotypes of gender, race, class or personality is unreliable (Ellsworth & Reifman, 2000)
- Techniques to select jurors have also been criticised and research findings are limited since those who can afford trial or jury consultants also can afford private defence teams
- Overwhelmingly, jurors seem to render verdicts based on the evidence presented in the case, rather than their own biases, personality and attitudes

11.5: Science & Juries

- Historically jurors have had to come to grips with a range of scientific evidence:
    - Fingerprints
    - DNA

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Module 12: Assessment of Risk, Dangerousness and Recidivism

12.1: Duty to Warn/Protect

- Decision making regarding risk and dangerousness involves attempting to predict future behaviour
- Consideration given to:
    - Protecting the general public
    - Protecting staff of institutions
    - Protecting other inmates
    - Protecting individuals from self harm and suicide

Tarasoff v Regents of the University of California 17 Cal. 3d 425

- After a friendly kiss, Podder became obsessed with Tatiana Tarasoff
- Eventually Podder sought counselling with a psychologist
- During a session he confessed that he planned to kill Tarasoff when she returned from Brazil; psychologist informed two other professionals at the clinic and it was decided he should be involuntarily admitted to a psychiatric unit
- Campus police were notified to detain Podder and take him to the hospital; campus police spoke to him and were satisfied that he would stay away from Tarasoff
- Podder ceased seeing his psychologist
- All documentation of the preceding events were allegedly ordered to be destroyed by the director of the clinic when he learned that Podder had not been committed
- When Tarasoff returned Podder went to her home to speak with her; she refused and he shot her with a pellet gun then chased her and stabbed her repeatedly. She died as a result.
- Podder called the police; pleaded not guilty by reason of insanity; this did not hold up in court and he was found guilty of second degree murder (although this was later overturned and he was never re-tried after serving 5 years in prison)
- Tarasoff's parents commenced a lawsuit against the University for failing to detain Podder and for failing to warn their daughter of his threats
    - In the California the Tarasoff case established that a psychologist has a duty to warn an intended victim they he/she may be in danger if they believe the patient may be serious danger to them
    - Duty to warn was subsequently replaced by a duty to protect, requiring the psychologist to take active steps to protect the potential victim, but not necessarily warn them
    - Tarasoff case doesn't apply in Australia

Australia

- In Australia, psychologists' behaviour is governed by the APS Code of Ethics, which has been adopted by the Psychology Board of Australia. Section A.5.2: can disclose confidential information if:
    - "(b) where there is a legal obligation to do so

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- (c) if there is an immediate and specified risk of harm to an identifiable person or persons that can be averted only by disclosing information"

12.2: Predicting Dangerousness

- Defining dangerousness is difficult but generally relates to past violent or serious behaviour and the likelihood of similar conduct in the future
- Clinicians traditionally over-predict the likelihood of the dangerousness of a person (false positives)
- Two activities involved in predicting dangerousness (Hodgins, 1997):
  - Who will be violent/aggressive/criminal?
  - Under what conditions will an individual be violent/aggressive/criminal?
- Limitations of predictions are:
  - Limited number of risk factors used to make predictions
  - Definitions of violence or dangerousness vary
  - Research design and participant samples
  - Separate studies rarely examined in conjunction with each other and rarely replicated

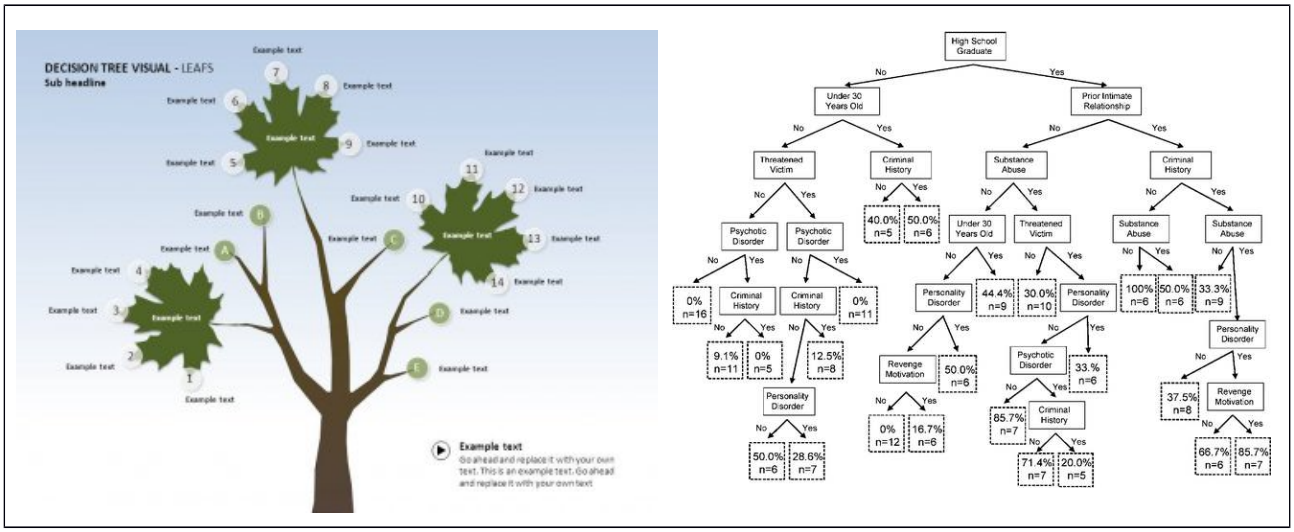
12.3: Clinical & Structured Approaches

Risk and Dangerousness Assessment

- Two types:
  - Clinical judgement approach
  - Statistical or actuarial assessment

Clinical Approaches

- Linear model – can be represented in flow diagram or decision tree



- Hypothetico-deductive model – knowledge about previous behaviour and relevant theories used to predict future behaviour

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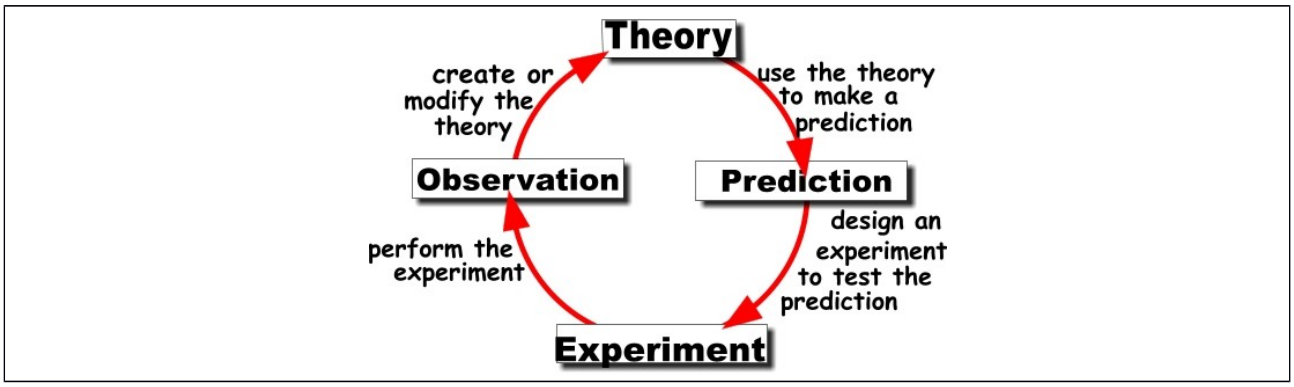
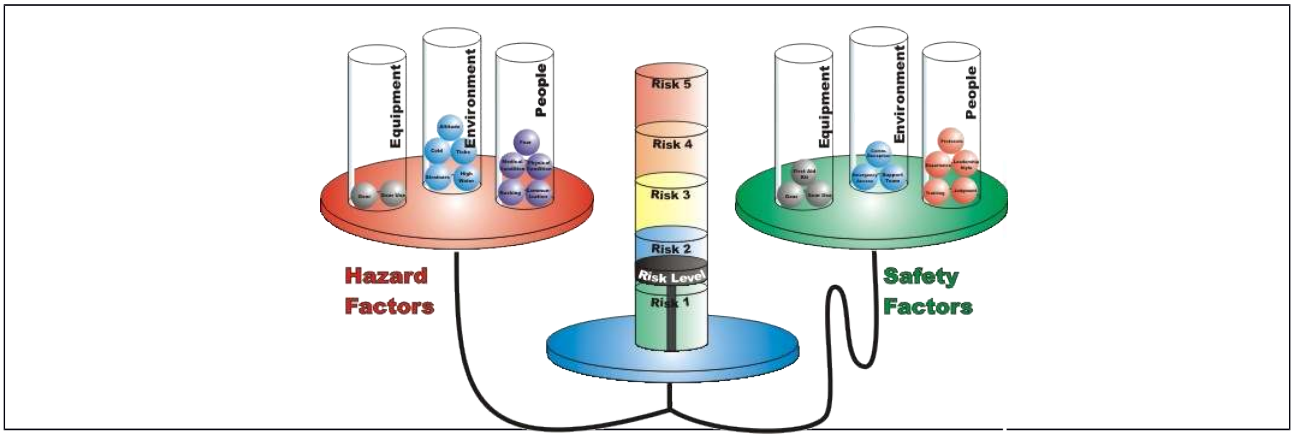


- Risk assessment model – allows for multi-dimensional nature of violence (includes personality, social and political context)



Structured Clinical Approaches

- Combination of actuarial measures and clinically relevant variables
- Relevant clinical measures:
    - Psychopathy checklist (PCL; PCL-R)
    - Violence Risk Appraisal Guide (VRAG)
    - Rapid Risk Assessment for Sexual Offender Recidivism (RRASOR)

12.4: Predicting Recidivism

	Reoffends	Did not reoffend
Predicted will reoffend	True positive	False positive
Predicted will not reoffend	False negative	True negative

- Relevant issues
    - Predictive accuracy of test
    - Base rate of offending (best if base rate of recividism 50%, but this is rarely the case)
    - See pp. 493-494 of text

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Preventative Detention of Sexual Offenders

- Few crimes engender such fear in the community as sexual offences
- Fear of repeat sexual offending and publicised cases of serious repeat offending has prompted the introduction of laws targeted at 'sexual predators' that allow for the detention of a convicted sexual offender past their actual sentence
- Application of these laws is often based on the predicted dangerousness of the individual and their likelihood of re-offending
- Focus of laws is community safety

Dangerous Prisoners (Sexual Offenders) Act 2003

- The Dangerous Prisoners (Sexual Offences) Act 2003 (Qld) was enacted on June 6th, 2003 (DPSO Act). It was only introduced to Parliament three days prior.
- Permits prisoner with a serious sexual offence to be detained if a serious danger to community if released
- Impetus
    - Release of individual at end of sentence thought to be high risk
    - Criticisms of Criminal Law Amendment Act 1945 (CLLA) to meet community standards
    - Take away focus on 'control' of their sexual instincts that was central to the CLAA

Dangerous Prisoners (Sexual Offenders) Act 2003

- Risk – court determines whether there is an unacceptable risk the prisoner will commit a serious sexual offence if released
- Standard - Acceptable, cogent evidence to a high degree of probability
- Therefore, swing away from people's condition to their risk potential

12.5: Robert Fardon Case Study

- On October 3, 1988 Mr Robert Fardon committed sodomy and unlawful assault on a female and was accused of raping the female
- He plead guilty to these offences on June 22, 1989 but plead not guilty to the alleged rape
- He was convicted of all offences and sentenced to 14 years in prison, expiring on June 27, 2003.
- Three weeks before Fardon was due for release, the DPSO Act was enacted.
- Fardon was the first individual to have the DPSO Act applied
- An appeal regarding the nature of the legislation went to the Qld Court of Appeal (Attorney General v Fardon (Qld))
- Special leave to appeal to the High Court on the grounds that the legislation was unconstitutional was granted, but the appeal was dismissed and the case returned to the Qld Court of Appeal
- Qld Court of Appeal found:
    - The Qld Act was of general rather than individual application
    - Evidentiary standards not so broad for final orders
    - Standard of proof higher than in Kable v Director of Public Prosecutions (NSW)

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    - Indefinite detention for purpose of community protection rather than punitive
- In applying the legislation to Fardon the judge considered the following information:
    - Mr Fardon had undertaken a number of programs, but had not completed the SOTP or a range of other recommended programs
    - Experts indicated that "present scientific tools did not permit a determination, with a reasonable degree of accuracy, of an individual's likelihood of being violent or re-offending sexually" (p.14).
    - The psychiatrist recommended against immediate release, while the psychologist suggested a careful risk management plan with intensive monitoring may be preferable
- Judge concluded that there was sufficient cogent and acceptable evidence to satisfy standard of proof
- Balanced option of release against 'consequences of failure'
- Ordered detention for indefinite term for purpose of control, care and treatment
- Fardon released in December 2006 but detained again approximately seven months later when he breached the terms of his supervision order
- Fardon released again in late 2007 (order requires him to wear an electronic monitoring device), despite Attorney-General requesting that he continue to be detained
- Issues raised by legislation and Fardon's case:
    - Expert medical and psychological evidence is central in predicting dangerousness
    - However, does the prediction of risk of future serious or dangerous offending fall within the usual parameters of expert evidence?
    - Should risk assessments be extrapolated from making *treatment* decisions to inform *legal* decisions such as indefinite detention?

12.6: Issues In Predicting Risk & Dangerousness

- Risk relates to likelihood; dangerousness relates to the consequences of offending/reoffending (balancing the two issues is difficult)
- Need to look at ways to minimise risk and danger to others
- These two constructs are dynamic
- Multiple sources and contexts for risk
- Risk factors carry different weights
- Poor ability to predict violence in the absence of prior violence
- Definition of recidivism

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